EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

No. _____

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER 1991

STANLEY C. MANN, PRO SE.,
PETITIONER,

v.

JUDGES RIGTRUP, ET ALL,
RESPONDENTS.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Stanley C. Mann
P. O. Box 17905
Salt Lake City, Utah 84117
(801) 278-9460
Counsel for Petitioner, Pro se.,

QUESTIONS PRESENTED

1. Whether or not Mann's civil rights were violated in C85-0119, (Malicious Prosecution) when Watkiss & Campbell (W&C)/Wayne Wadsworth (Wadsworth), Christensen Jensen & Powell(CJ&P)/Ray Christensen (Christensen), agents for INA, and case manager(s) for INA (INA), UCA §76-8-510-511, (app. Y-1-Y-2) destroyed files, altered records & other evidence during Litigation; when Judge Rokich refused to allow the jury to know those criminal acts had been committed or allow prior perjured testimony of Wadsworth to be read; when the defendant Judges, Greenwood, Bullock, Newey & Hall, UCA §76-8-306, (app. U-1), obstructed justice by agreeing to suborn the above criminal acts, or when these judges in order to justify the subornation of criminal acts, UCA §76-8-511, (app. Y-2) falsified public records in their Opinion filed June 20, 1989. (87-0211-CA).

2. Whether or not Mann's civil rights were violated in Suit C85-0119, (Malicious

Prosecution), when Judge Rokich on the motion of W&C/Wadsworth, CJ&P/R. Christensen that documents and pleadings they filed in Suit C79-0772W, (a civil lawsuit charging Stanley C. & Louise Mann with **Conspiracy to Commit First Degree Murder)** were now immaterial and irrelevant, denied discovery into Suit C79-0772W, when the malicious prosecution action suit C85-0119 arose over this very action, and whether or not the above named defendants and judges, Greenwood, Bullock, Newey UCA §76-8-306, (app. U-1), obstructed justice by suborning the above criminal acts, and the judges justified their subornation UCA §76-8-511, (app. Y-2), by falsifying public records in their Opinion filed June 20, 1989. (87-0211-CA).

3. Whether or not Mann's civil rights were violated in Suit C85-0119, (Malicious Prosecution) when Judge Rokich UCA §76-8-508, (app. Y-1) dismissed Mann's properly subpoenaed witness, (refused to allow Mann to call that witness) and when the above named defendants

asked Judges Greenwood, Bullock, Newey UCA §76-8-306, (app. U-1), to obstruct justice by suborning the above criminal acts, which they were in agreement doing, and the judges justified their subornation UCA §76-8-511, (app. Y-2), by falsifying public records in their Opinion filed June 20, 1989. (87-0211-CA)

4. Whether or not Mann's civil rights were violated in Suit C85-0119, (Malicious Prosecution), and his case was compromised, Ut. R. Evid. Rule 608, Ut. R. Evid. Rule 613, (app. L-1 and M-1), when Judge Rokich refused to allow the jury to hear the perjured statements or see the documentation that Wadsworth was a habitual liar and perjurer, or that Wadsworth who was the only witness, UCA §76-8-502-503, app.V-1), UCA §76-8-504-505, (app. W-1), had committed perjury in his testimony to the jury. Documentation verified Wadsworth had perjured himself numerous times and when the above named defendants asked Judges Greenwood, Bullock, Newey UCA §76-8-306, (app. U-1), to obstruct justice by suborning the

above criminal acts, they were in agreement in so doing, and the judges justified their subornation UCA §76-8-511, (app. Y-2), by falsifying public records in their Opinion filed June 20, 1989. (87-0211-CA)

5. Whether or not Mann's civil rights were violated in Suit C85-0119, (Malicious Prosecution), when Judge Rokich changed a jury instruction, which invalidated a duly constituted law under which Mann filed his malicious prosecution suit and when the above named defendants asked Judges Greenwood, Bullock, Newey UCA §76-8-306, (app. U-1) to obstruct justice by suborning the above criminal acts, which they were in agreement in so doing, and the judges justified their subornation UCA §76-8-511, (app. Y-2), by falsifying public records in their Opinion filed June 20, 1989. (87-0211-Ca)

6. Whether or not Mann's civil rights were violated in Suit C85-0119, (Malicious Prosecution), when Judge Rokich, who was

previously in the practice of law with defendant Watkiss & Campbell, refused to recuse himself and although provided documented evidence of the law firms involvement and the law, URCP Rule 56, (app. K-1-K-3), dismissed Watkiss & Campbell from the suit and when the above named defendants asked Judges Greenwood, Bullock, Newey UCA §76-8-306, (app. U-1), to obstruct justice by suborning the above denial of due process, which they were in agreement in so doing, and to justify the subornation of due process, UCA §76-8-511, (app. Y-2) falsified public records in their Opinion filed June 20, 1989, (87-0211-CA)

7. Whether or not Mann's civil rights were violated in Suit C79-0772W, (The Intentional Interference with a Parents Right of Custody of his Child and Damages Resulting from an Attempted Homicide), when Watkiss & Campbell /Wadsworth, after they had resigned as counsel for the plaintiffs, UCA §76-6-406, (app. S-1) attempted to extort advantages for Watkiss &

Campbell/Wadsworth in C80-0772W, and in other suits, which they said were irrelevant and immaterial to the attempted murder charge and when the above named defendants asked Judges Greenwood, Bullock, Newey UCA §76-8-306, (app. U-1), to obstruct justice by suborning that act of extortion, which they were in agreement in so doing, and to justify the subornation, UCA §76-8-511, (app. Y-2) falsified public records in their Opinion filed June 20, 1989, (87-0211-CA)

8. Whether or not Mann's civil rights were violated in CA 225-141, (Malicious Prosecution), when Watkiss & Campbell /Wadsworth "bribed" Mann's California Counsel, Belli & Choulas, UCA §76-8-508, (app. Y-1), by offering to join them in a lucrative I.U.D. lawsuit with Watkiss & Campbell, if they **would not** continue to pursue Mann's case against them and allow case to be dismissed. This offer was made through an interstate telephone conversation initiated by W&C/Wadsworth.

9. Whether or not Mann's civil rights were violated in C79-4063, (Trust), when Judge Rigtrup arranged for Attorneys, Holme, Roberts & Owen (HR&O)/Brent Manning (Manning) to transfer, the court sealed records, which contained the discovery information provided by Mann, in Civil Suit C79-4063, (Trust), and a Holme, Roberts & Owen biased and fraudulent file (entitled **CONFIDENTIAL**-Attorney/Client Privilege), UCA § 76-8-506, (app.X-1), which contained disputed, known false statements and acts attributed to Mann, and the claims and conclusions of HR&O/Manning (for which there was no documentation), to the Salt Lake County Attorney's Office for use as factual evidence, and when the above named defendants asked Justice Hall, Justice Stewart, Justice Howe, & Justice Durham UCA §76-8-306, (app. U-1), to obstruct justice by suborning the above criminal acts, and they agreed to do so, and justified the subornation, UCA §76-8-511, (app. Y-2), by falsifying public records in their Opinion filed

June 30, 1988. (19730)

10. Whether or not Mann's civil rights were violated in Civil Suit C79-4063, (Trust), when Judge Frederick issued a Summary Judgment, URCP Rule 56, (K-1-K-3), against Mann, when there existed documentation of genuine issue as to material fact, and when the fore-mentioned defendants asked Justice Hall, Justice Stewart, Justice Howe, & Justice Durham UCA §76-8-306, (app. U-1), to obstruct justice by agreeing to uphold the Partial Summary Judgement and deny Mann a "Trial on the Facts", and to justify the denial of a "Trial on the Facts", UCA §76-8-511, (app. Y-2), falsified public records in their Opinion filed June 30, 1988. (19730)

11. Whether or not Mann's civil rights were violated in Civil Suit C81-8644, (Libel), when Wadsworth, CJ&P/R. Christensen, agents for INA, URCP Rule 11, (app. I-1), knowingly filed fraudulent pleadings to deprive Mann of due process and a proper defense and when the above named defendants asked Justices Bench, Billings,

Garff & Gordon R. Hall UCA §76-8-306, (app. U-1), to obstruct justice by suborning the above criminal acts, which they were in agreement in so doing. Opinion (Not for Publication) filed February 25, 1988. (No. 860373-CA)

12. Whether or not Mann's civil rights were violated in Civil Suit C81-8644, (Libel), by the intentional subornation of the documentation that Wadsworth was a habitual liar and perjurer by Judge Fishler in violation of Ut. R. Evid. Rule 608, (app. L-1), and Ut. R. Evid. Rule 613, (app. M-1), and when CJ&P/Christensen, agents for INA, requested Judge Fishler, and Justices Bench, Billings, Garff & Gordon R. Hall UCA §76-8-306, (app. U-1), to obstruct justice by suborning the above criminal acts, which they were in agreement in so doing. Opinion (Not for Publication) filed February 25, 1988. (No. 860373-CA)

13. Whether or not Mann's civil rights were violated in Civil Suit C81-8644, (Libel), when CJ&P/R. Christensen, agents for INA, and

Wadsworth, UCA §76-8-508, (app. Y-1), and UCA §76-6-406, (app. S-1), sent an extortion letter to a "special list" of Mann's contractual customers, (which had been provided to Holme, Roberts & Owen/Manning and sealed by Court Order, in C79-4063, Trust), threatening to sue them if they did not discontinue doing business with Mann and when the above named defendants asked Justices Bench, Billings, Garff & Gordon R. Hall UCA §76-8-306, (app. U-1), to obstruct justice by suborning the above criminal acts, which they were in agreement in so doing. Opinion (Not for Publication) filed February 25, 1988. (No. 860373-CA)

14. Whether or not Mann's civil rights were violated in C81-8644 (Libel), when the court ordered that Mann must submit his revised manuscript to the court before publishing, for their prior censorship and when the above named defendants asked Justices Bench, Billings, Garff & Gordon R. Hall UCA §76-8-306, (app. U-1), to obstruct justice by upholding the prior

censorship, which they were in agreement in so doing. Opinion (Not for Publication) filed February 25, 1988. (No. 860373-CA)

15. Whether or not any parties, including judges, are entitled to any immunity for the commission of criminal acts, or any other intentional acts, which knowingly violates another individual's civil rights. If there is such an immunity, what does it encompass.

16. Whether or not Mann's Constitutional rights were violated when the State of Utah and the Attorney General of Utah, EXH. K. Amended Brief of Appellant, filed in the United States Court of Appeals for the Tenth Circuit, received duly served, official notification, on February 14, 1989, with indisputable documentation that defendant judges **"State Actors"** and lawyers had conspired through deceit and collusion, failed to acknowledge, respond or take any action. UCA §76-8-201, (app. T-1), (Failure of duty)

17. Whether or not a District Court and/or a Court of Appeals abuses its discretion

in making an independent examination of the record to determine if a plaintiff is making "conclusory allegations" when the Complaint has never been answered and no discovery was allowed.

18. In defendants' commission of the foregoing acts, were Appellant Mann's Constitutional Rights, under the First, Fourth, Fifth, Sixth, Seventh & Fourteenth Amendments to the United States Constitution violated.

LIST OF PARTIES

The parties to the proceedings below were the petitioner Stanley C. Mann respondents Judges, Kenneth Rigtrup, David B. Dee, Philip R. Fishler, Regnal W. Garff, Russell W. Bench, Judith M. Billings, Gordon R. Hall, Pamela Greenwood, J. Robert Bullock, Robert L. Newey, Dennis J. Frederick, John A. Rokich, Watkiss & Campbell Inc., H. Wayne Wadsworth, Stephen A. Trost, David S. Young, Christensen Jensen & Powell Inc., Ray R. Christensen, Holme, Roberts & Owen Inc., Brent V. Manning, Insurance by North America, and Does 1-10.

TABLE OF CONTENTS

TABLE OF CONTENTS (Continued)

TABLE OF CONTENTS (Continued)

TABLE OF CONTENTS (Continued

TABLE OF AUTHORITIES

CASES Page

TABLE OF AUTHORITIES (Continued)

UNITED STATES CONSTITUTION

STATUTES INVOLVED

RULES CITED

TABLE OF AUTHORITIES (Continued)

RULES (Continued)

MISCELLANEOUS

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1991

STANLEY C. MANN
PETITIONER

v.

JUDGE RIGTRUP, ET AL
RESPONDENTS

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

The Petitioner Stanley C. Mann respectfully prays that a Writ of Certiorari issue to review the judgement and opinion of the United States Court of Appeals for the Tenth Circuit, entered in the above-entitled proceeding on June 6, 1991.

OPINIONS BELOW

The opinion of the Court of Appeals for the Tenth Circuit has not been reported. It is reprinted in the Appendix hereto, pp. A-1-A-5.

The memorandum decision of the United States District Court for the District of Utah

has not been reported, it is reprinted in the Appendix hereto, pp. B-1-B-18,

JURISDICTION

Invoking federal jurisdiction under 42 U.S.C. §1983, the petitioner brought this suit in the District of Utah on October 19, 1989. On May 21, 1990 the District of Utah, dismissed appellant's actions for lack of subject matter jurisdiction.

On June 21, 1990, appellant was informed by the United States Supreme Court that appellant's action could not be filed directly with the United States Supreme Court but would have to be filed with the United States Court of Appeals for the Tenth Circuit and come through the Court of Appeals to the United States Supreme Court. According to the United States Supreme Court this could be accomplished pursuant to 28 USC §1631, to cure the want of jurisdiction previously declared by the District Court of Appeals.

On June 22, 1990 appellant filed, in the

United States Court of Appeals for the Tenth Circuit, a Notice of Appeal and Petition for Transfer directly to the United States Supreme Court per 28 USC § 1631. (app. pp. C-1-C-4),

On August 3, 1990 appellant filed, in the United States Court of Appeals for the Tenth Circuit, Appellant's Second Motion to Transfer Appeal, and Memorandum in Support of Appellant's Second Motion to Transfer Appeal to the United States Supreme Court, (app. D pp. D-1-D-16).

On October 10, 1990 United States Court of Appeals for the Tenth Circuit, denied appellant's Petition for Transfer and appellant's Second Motion to Transfer. (app. E pp. E-1-E-2),

On June 6, 1991 the United States Court of Appeals for the Tenth Circuit, dismissed the action for lack of subject matter jurisdiction. (app. A pp. A-1-A-5).

STATUTES INVOLVED

28 U.S.C.§1257. State courts; certiorari

> (a) Final judgments or decree rendered by the highest court of a State in which a decision could be had may be reviewed by the Supreme Court by writ of certiorari

where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

28 U.S.C. §1291. Final decisions of district courts

"The courts of appeals (other than the United States Court of Appeals for the Federal Circuit shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands; except where a direct review may be had in the Supreme Court. The jurisdiction of the United States Court of Appeals for the Federal Circuit shall be limited to the jurisdiction described in sections 1292 (c) and (d) and 1295 of this title. As amended Oct. 31, 1951, c. 655, § 48, 65 Stat. 726; July 7, 1958, Pub.L.85-508, § 12(e), 72 Stat. 348; Apr. 2, 1982, Pub.L.97-164, Title I, §124,96 Stat.36."

28 U.S.C. §1631. Transfer to cure want of jurisdiction.

"Whenever a civil action is filed in a court as defined in section 610 of this title or an appeal; including a petition for review of administrative action, is noticed for or filed with such a court and that court finds that there is a want of jurisdiction, the court shall, if it is in

the interest of justice transfer such action or appeal to any other such court in which the action or appeal could have been brought at the time it was filed or noticed and the action or appeal shall proceed as if it had been filed in or noticed for the court to which it is transferred on the date upon which it was actually filed in or noticed for the court from which it is transferred. Added Apr. 2, 1982, Pub.L. 97-164, Title III, § 301(a), 96 Stat. 55."

STATEMENT OF THE CASE

Mark Wheeler and Joan Newton were married on June 9, 1967. There were no natural children born of the marriage. On April 10, 1975, a baby boy later named David Mark Newton Wheeler, (hereinafter referred to as David Wheeler), was placed in their home for adoption. Joan Wheeler and David Wheeler met Mark Wheeler at the Los Angeles Superior Court House on December 19, 1975 for the signing of the final adoption paper. On departing the Court House, Joan Wheeler was informed by Mark Wheeler that he was involved with someone else. Mark Wheeler abandoned his wife and new son on the Court House steps. The Los Angeles police records show that Wheeler was at the time, not traveling

out of town on business trips as he had told his wife Joan, but was living with Silvi Ingebrigtsen (sister-in-law of defendant, Wayne Wadsworth) at 5900 Canterbury Drive in Culver City, California. Joan Wheeler filed for divorce in January 1976. Mark & Silvi Ingebrigtsen were married in September of 1976. Divorce was granted to Joan Wheeler in December of 1976.

Mark Wheeler made no court ordered child support payments after March of 1977. On December 28, 1978, Joan Wheeler was killed in a United Airlines crash in Portland Oregon, while serving as a flight attendant. For a period of 21 months prior to Joan Wheeler's death, Mark Wheeler had not paid any child support, visited or attempted to exercise his visitation rights. At the time of Joan Wheeler's death her young son, David, was in the care of Stanley C. Mann and Louise S. Mann, Joan Wheeler's uncle and aunt, whom the young boy referred to as Grandpa and Grandma, and the home where he spent a large

part of each month.

Joan Wheeler left a will, which also set up a trust for David Wheeler. Stanley C. Mann was named as executor of the will. In the event appellant did not serve, Gail H. Taylor, a sister of Joan Wheeler was named to serve. Stanley C. Mann was named trustee of the trust, and Gail H. Taylor as trustee, if Stanley C. Mann did not serve. Stanley C. Mann and Louise S. Mann were named as joint guardians of any minor children, and of the estate of any minor children. All were to serve without bond.

The Mann's filed P79-2 (Custody) in the Third Judicial District Court of Utah January 2, 1979, entitled, "*In the Matter of David Mark Newton Wheeler*". The Manns asked for custody of David Wheeler on the basis of abandonment of the child. UCA §78-30-5 (app. Z-1) provides that, "If a parent has failed to support or communicate with the child for a period of one year or longer, there is a presumption of abandonment."

During the hearing before Judge Bryant Croft on January 12, 1979, Watkiss & Campbell/Wayne Wadsworth (hereinafter referred to as W&C/Wadsworth), denied Mark Wheeler was 21 months in arrears in child support, had failed to visit or contact the child in over 21 months. Judge Croft awarded temporary custody of David Wheeler to Mark Wheeler. Judge Croft further ruled: "That due process requires that the Manns have a chance to assert and prove their claims (abandonment) in court." Judge Croft also required Mark Wheeler to post bond and bring David Wheeler back to Utah for a full custody hearing at a later date. During the hearings on January 11, and the following day, January 12, 1979, Wadsworth repeatedly informed the court that the new Mrs. Wheeler (Silvi Ingebrigtsen) was his sister-in-law.

Wadsworth informed the Court,

> "He knew the Wheelers very well, having been in their home many times".

This was all false, with the exception of the relationship. Wadsworth stated in open

court, that because of the many times he had been in the Wheeler's home,

> "he could assure the court would find it is in the top percentile of one or two percent of the homes in which a child could be placed."

Wadsworth, **had never been in their home.** Wadsworth later gave a deposition detailing all the times he had been in the Wheeler's home and how well he knew Mark Wheeler. However, on the witness stand, under oath, in C81-8644 (Libel Trial), Wadsworth admitted he had never been in the Wheeler's home and that he had only briefly met Mark Wheeler, on one, and at the most, on two occasions.

Beginning January 11, 1979, in the first hearing held in Suit P79-2, (Custody) and through the pleadings and documents of the other suits hereafter cited, Wadsworth began a pattern of documented lying, perjury, falsification of statements, perjured sworn testimony, and knowingly filed false pleadings. There are over thirty (30) incidences of these documented acts of Wadsworth's classical, sociopathic lying and

perjury. The Custody Suit was coordinated by Wadsworth and totally financed by W&C. The family client (Wheelers) never paid a retainer or any money for costs or legal services on any of the suits.

Within hours of being awarded temporary custody, Attorneys W&C /Wadsworth and David S. Young, hereafter referred to as Young, began conspiring to remove Stanley C. Mann as the Executor of the Will, and Trustee of the Trust, along with the designated alternate Executor of the Will & Trustee of the Trust, Gail H. Taylor, and Stanley C. Mann and Louise S. Mann as Guardians of the minor children and the estate of any minor children as provided in the Will of Joan Newton Wheeler. Young was an attorney previously serving as legal counsel for the Mann's family owned company and discharged for cause, Docket 1, No. 89-C 943 A, Pgs. 13, 34 & 35, filed in the United States District Court, District of Utah, Oct. 19, 1989.

Young was also the husband of an estranged

sister of Joan Wheeler, and brother-in-law of Wheeler. Immediately United Airlines and their insurers were asked by Young's law firm, Stewart, Paxton & Young, not to recognize Stanley C. Mann as the Trustee & Executor of the Will of Joan N. Wheeler, as they were initiating procedures to challenge the Will & Trust. At this same time, Young started to initiate a "Wrongful Death suit" in behalf of the Estate of Joan N. Wheeler for which Stanley C. Mann and Louise S. Mann were designated as joint guardians. In March of 1979, W&C /Wadsworth engaged a law firm in Colorado, with Wadsworth acting as associate counsel, and the firm filed 79-PR41 in the District Court of Colorado, County of Arapaho, attempting to set aside the Will of Joan Wheeler. This suit was coordinated by Wadsworth and financed by Watkiss & Campbell.

In March of 1979, Suit NWP16218, to break the Will and Trust of Joan Newton Wheeler, was filed in Superior Court of California, County of Los Angeles, reading almost verbatim to the

Colo. action. W&C/Wadsworth, in violation of Joan Wheeler's Will and Trust, asked for a Court Order forcing Mann to put up a bond, and the Court so ordered. At the time this occurred, W&C/Wadsworth and their family client were fully aware of where the Trust money was invested. Immediately after the bond was posted, W&C/Wadsworth, Young, and their family client, initiated actions to damage and destroy the companies in which the Trust money was invested. After succeeding in doing irreparable damage to these companies, they applied for and collected the proceeds of the bond, by-passed the legally designated alternate Trustee, and the Court placed the proceeds from the bond in the hands of a Trustee requested by Wheeler. Defendant Wadsworth plotted and attempted to frame Appellant Mann for the criminal act of breaking and entering of the home of his client, Wheeler's, neighbor in California and the forgery of this neighbor's checks in April of 1979. Approximately three weeks later, Friday,

May 11, 1979, at approximately 10:00 p.m., Wheeler was shot, allegedly by an unidentified gunman. Wadsworth and Young attempted to frame Appellant Mann and his wife for conspiracy to commit attempted First Degree Murder of their client and brother-in-law, (Wheeler).

Within hours, Wadsworth drove by the Mann's home the early hours of May 12, 1979, and Young called the Los Angeles Police Department at 0900 the morning of May 12, giving them detailed information, on the Manns, their cars, their company vehicles and complete details of the Mann's immediate family members, including employment, where they attended school and their personal cars. This detailed information, which was provided, could have only been gathered prior to the shooting, and this he admitted he had done. Wadsworth's later sworn testimony also provided documentation that Wadsworth had prior knowledge that the shooting was going to take place.

On Monday, May 14, 1979, W&C/Wadsworth and

Young made an ex-parte call on Judge Croft, calls were made on Salt Lake County law enforcement officials, Salt Lake County officials, and on State and Federal government officials, and a few days later on the Hierarchy Officials of the Church of Jesus Christ of Latter Day Saints, tieing Mann to the shooting of Mark Wheeler. This was done in an attempt to destroy and discredit Mann. W&C/Wadsworth charged all of these calls (including Wadsworth's & Young's legal fees for the call on the Church Hdqts), to Suit P-79-2 (Custody). All of these contacts made on "State Actors" were initiated by one or more of the defendants.

Three days after the calls were made on Judge Croft and the law enforcement officials, (and numerous conference calls with Silvi Wheeler), Silvi Wheeler, **allegedly under hypnosis**, claimed she saw Appellant Mann at the scene of the shooting. (Mrs. Wheeler had only seen Appellant Mann, briefly on one occasion four months previously, and she was unable to

give a description of the party she stated was Appellant Mann).

Wadsworth and Young made the ex-parte visit to Judge Croft linking the Mann's to the shooting, knowing it would disqualify the judge who had ruled the Manns were entitled to "due process to prove their case of abandonment" and facilitate Judge Baldwin to sit on the case. Judge Baldwin was a former law partner of Wadsworth for 17 years prior to being appointed to the bench.

The Los Angeles detectives testified under oath that they informed Watkiss & Campbell/Wadsworth and their family client, that there was absolutely no evidence to tie the Manns into the shooting in any way and they also informed W&C/Wadsworth and their client (Wheeler) that there were witnesses to Appellant Mann being in Utah at the time the shooting took place, in spite of the fact that Mrs. Wheeler **under hypnosis** had said she saw Appellant Mann at the scene of the shooting. The officers

also informed Mr. Wadsworth that it was impossible for Mrs. Wheeler to recall seeing something that it was virtually impossible for her to see in the first place, due to the distances and the lighting involved at the time the shooting took place.

However, in all the suits W&C /Wadsworth, Young, Holme, Roberts & Owen /Manning, (hereinafter referred to as HR&O/Manning) and Stephen A. Trost, hereafter referred to as Trost), were involved in, they continually alleged in every pleading, every hearing, in public and various church meetings, that appellant Mann was involved and the only suspect in an attempted homicide in California.

On June 20, 1979, Suit C79-4063 (Trust), which was an action to break the Trust of Joan Wheeler which she had set up for her son, David Wheeler, was filed by W&C/Wadsworth in the Third District Court of Utah . In spite of what they had been told by the Los Angeles Detectives and Detective Jerry Thompson of the Salt Lake County

Attorney's Office, the Complaint, as well as the argument presented to Judge Durham for the appointment of Mark Wheeler as Guardian Ad Litem for David Wheeler, alleged Appellant Mann was responsible for the shooting of Mark Wheeler.

This suit was financed and continued to be financed by W&C, who later withdrew in favor of Trost, a lawyer who resigned from W&C and set up offices with Young. This suit was later turned over to HR&O/Manning.

On May 23, 1983, a Partial Summary Judgement was issued by Judge Frederick in Suit C79-4063 (Trust), although, there was substantial documentation of genuine issue as to material fact, and although, the Motion for Partial Summary Judgement by HR&O/Manning contained statements and conclusions which were obviously false. Appellant Mann was denied a trial on the facts and defendant Judge Hall upheld the denial of Mann's right to a trial on the facts. UCA 75-3-203 (app. Q-1) Defendants, Frederick & Hall in their ruling completely by-

passed the alternate trustee, named in the Trust, in violation of Utah State Trustee Statutes. The Court then appointed a Trustee requested by Wheeler. The defendants' acts violated Appellant Mann's Civil rights under the Sixth Amendment.

On July 23, 1979, P79-2 (Custody) hearing was held for permanent custody before Judge Ernest Baldwin. Judge Baldwin would not allow any evidence on abandonment to be entered. Judge Baldwin stated, that the only issue was Wheeler's fitness **Now** and that would be based on how he had treated the boy since January of that year, when he had been granted temporary custody.

On December 28, 1979, Civil Suit C79-0772W, charging Stanley C. Mann and Louise S. Mann with "intentional interference with a parent's right of custody of his child and for damages resulting from attempted homicide.", (hereafter referred to as **attempted murder**) was filed in the United States District Court, District of

Utah, by W&C /Wadsworth, seven months following the shooting.

On May 21, 1980 a hearing was held before Judge Winder relative to a Summary Judgement for Louise S. Mann on the two counts of Attempted Murder. (Judge Winder granted a Summary Judgement to Louise S. Mann). At this hearing, W&C/Wadsworth filed a Motion to withdraw as counsel in this suit. URCP Rule 11, This motion contained false and misleading information. Based on the information supplied, Judge Winder granted this motion. Immediately following this hearing, and after W&C/Wadsworth had resigned as counsel for their family client, they attempted to negotiate with the appellant Mann's attorney to drop the Attempted Murder charges, if appellant Mann would withdraw as Executor of the Will and Trustee of the David Wheeler Trust, and if appellant Mann and his wife would resign as Guardians of the Estates both in California and in Colorado, and if they **guaranteed** not to sue W&C /Wadsworth for Malicious Prosecution. Trost

replaced W&C/Wadsworth as counsel for the Wheelers. He was engaged by and financed by W&C/Wadsworth.

On July 7, 1980, Trost filed a motion for a continuance of trial based upon a false statement URCP Rule 11, alleging that a Los Angeles Detective Ritter was unavailable to take the scheduled deposition ordered by Judge Winder.

On July 8, 1980, Trost made the very same offer to dismiss the attempted murder charge on Appellant Mann, on the same conditions Wadsworth had offered on May 21, 1980, including a guarantee not to sue **"Watkiss & Campbell /Wadsworth"** for Malicious Prosecution. On July 16, 1980 all **Attempted Murder** counts against Appellant Mann were dismissed **With Prejudice** by The Honorable Judge David K. Winder. On August 4, 1980, the "intentional interference with a parent's right of custody of his child" was dismissed by Judge Winder, when plaintiffs' refused to proceed with the suit, unless they

could get it transferred to the Third District Court of Utah.

During the hearings in the fore-mentioned suits and actions, W&C/Wadsworth, Trost and Young lied, repeatedly committed perjury, and filed false pleadings in the court.

On December 22, 1980, Suit C80-9961, (malicious prosecution), entitled *Louise S. Mann v. Mark W. Wheeler, Sylvi I. Wheeler, H. Wayne Wadsworth, David S. Young and Stephen A. Trost,* was filed by Lund and Associates in the Third District Court of Utah. As a result of these fore-mentioned criminal actions, seven months after W&C/Wadsworth had resigned from representing their family clients, (Wheelers), W&C/Wadsworth selected and engaged a law firm to represent the Wheelers in C80-9961, without the Wheeler's knowledge or approval. The law firm was later replaced by HR&O/Manning. (Jury awarded damages against the Wheelers and Wadsworth, and also punitive damages against Wadsworth, to Louise S. Mann). W&C & INA paid

the damages assessed for all of the parties, including HR&O/Manning's clients (the Wheelers). Young and Trost were dismissed from this action on the basis of their affidavits, affidavits later proven to be perjured. **The records of the Court document a fact that is indisputable, that Wadsworth and Young were habitual liars and perjurers, and they committed criminal acts. Wadsworth, under oath, admitted to the alteration of a taped interview of the Los Angeles Detectives with Appellant Mann.**

Because of these criminal actions, the book Mann was writing about his niece and her experiences as a single mother, took a different turn and included also Mann's experiences in attempting to carry out the provisions of her Will and Trust upon her death. A book entitled "One Against the Storm".

On July 16, 1981, Suit No.225-141, for Malicious Prosecution & Intentional Infliction of Emotional Distress, entitled *Stanley C. Mann v. Mark Wheeler, Sylvia Wheeler, Wayne Wadsworth*

and Does 1-XX inclusive, was filed in the Superior Court of the State of California, County of Contra Costa by Belli & Choulas.

Several months after this action was filed, Wadsworth by-passed his attorneys, Long & Leavitt, and called Mann's Calif. Belli & Choulas. EXH. 39 A & B, Appendix of Appellant, UCA §76-8-508, (app. Y-1) Wadsworth offered a bribe directly to Belli & Choulas to associate them in a lucrative I.U.D. law suit, if Caesar Belli would not pursue Appellant Mann's suit against Wadsworth. Almost immediately, Wadsworth filed a false affidavit in Support of a Motion to Quash. Although Belli & Choulas had the documentation which proved the affidavit was false. Belli & Choulas never contested the Motion nor the affidavit, and did not make an appearance at the hearing. (Wadsworth's Motion to Quash was granted and the Wheeler's were dismissed for failure to prosecute.)

On November 10, 1981, Civil Suit C81-8644, for libel, entitled *H. Wayne Wadsworth v.*

Stanley C. Mann, Quest Publishing Inc., Air Terminal Gifts; Albertson's, Inc.; B. Dalton Book Seller; Bobco's Self Service Foods; Bobco's; Bob's Magazine Corner; Book Vault; Carr Stationery; Dick's Thriftway; Grand Central; Harmon's, Inc.' I. G. A. Kombo; Jordan Valley Books and Cards; Little Professor Book Center; Logos Book Store; Macey's, Inc.; Ream's Markets; Sam Weller's Bountiful Book Store; Servus Drug; Skaggs-Alpha Beta; S.M.C. Management Corp.; Smith's Management Corp.; The Bus Stop; The Magazine Shop; The Wildflower; Waldenbooks; ZCMI; Zion's Book Store; and Does One through Fifty and hereafter referred to as Contractual Customer Confidential Sealed List, was filed in the Third District Court of Utah by Christensen, Jensen & Powell/Ray Christensen, (hereafter referred to as CJ&P /Christensen), agents for INA, and INA. This was one year after the book "One Against the Storm" had appeared on the market. The Complaint was only served on Stanley C. Mann and Quest Publishing

Inc., a wholly owned business of Appellant Mann and family.

On February 2, 1982, Appellant Mann filed a counter suit on the basis he knew the court records documented the criminal acts of perjury, filing false pleadings etc., as stated in the book. Mann's Counter Suit was dismissed, without the Complaint ever being answered or the requested discovery ever being provided.

On April 5, 1982, an Amended Complaint (Libel) entitled *Stanley C. Mann, Quest Publishing Inc., Western Marketing Resources (also a wholly owned Mann family company) and the same fore-mentioned contractual customers,* was filed in the Third District Court by CJ&P/Christensen and INA, Exhibit No. 32B, Appendix of Appellant Suit No. 90-4098, filed in the United States Court of Appeals, for the Tenth Circuit. Wadsworth, CJ&P/Christensen and INA were so concerned about the widespread distribution of the facts in the book being divulged that they sent a letter of extortion

out to the **Confidential sealed list** of Mann's contractual customers, which Appellant Mann had provided to HR&O/Manning and the Court, under an "Order of Secrecy, for use only in the Trust Case", C79-4063. The letter threatened the customers with:

> "legal action against them if they did not agree to an immediate and permanent withdrawal of the book (One Against the Storm).... and to return any copies on hand".

(Regardless of whether or not it was found to be libelous). None of these customers were ever served regardless of whether they signed the letter or not. Defendants never intended to serve any of these customers and they never did. The letter was sent solely with the purpose of damaging Appellant Mann's business relationship with these customers. The cost of writing and sending the letter was paid for by INA. They failed in their stated endeavor for writing the letter, which according to them was:

"for the purpose of killing the book the fastest and cheapest means possible".

On August 12, 1982 a Revised Amended

Complaint (Libel) *Stanley C. Mann, Quest Publishing Inc., Western Marketing Resources, only, was filed in the Third Judicial District Court by CJ&P /Christensen and INA.* (Jury verdict against Stanley C. Mann, Western Marketing Resources and Quest Publishing, guilty of libelous statements).

Judges Fishler and Dees, who sat on the case stated they were very well acquainted with Wadsworth and Young. The judges repeatedly refused to give Mann discovery into any of the sources which Mann had used in writing the book, despite appellants repeated requests made under URCP Rule 37 (app. J-1-J-5), See: Exhibits 1,2,4,5,6,7,8,9,10 of Docket 1 filed in the United States District Court, District of Utah, Suit 89-C-943A. Judge Fishler stated he had not read the book, and dismissed any potential jury member who had read or heard anything about the book, yet in Judge Fishler's remarks to all prospective jury members at the beginning of the Libel Trial, Judge Fishler stated the following:

Libel TR. Page 2. . . .

> "Ladies and Gentlemen, The book One Against the Storm which I'm holding up again, in part deals with the legal profession, and it's not the legal profession as a whole. I think it deals with the legal profession in Utah. Is there anyone here who has any opinion either for or against the lawyers who practice law in the State of Utah? In other words, do you feel they're either more truthful than the populace as a whole? If you feel that way, raise your hand".

It was apparent in Judge Fishler's unjudicial and biased statement (after admitting he had not read the book) that he felt the whole legal and judicial profession in Utah had an interest in the outcome of the trial, due to the risk to the legal and judicial systems' reputation. The comparison of the legal profession as a whole, had no relevancy to the acts of Wadsworth, but the remarks were made to divert the attention away from Wadsworth, by inferring that the whole legal profession's reputation was hinging on their findings regarding Wadsworth. One District Court Judge recused himself from a case involving

appellant's wife stating "I have a bias against the Manns due to the book "One Against the Storm"". (A book my wife had absolutely nothing whatsoever to do with). They would not let Appellant Mann use any of the sources used in writing the book, at the trial, on the motion of CJ&P/Christensen. Appellant Mann repeatedly requested the use of materials from Suit C79-0772W (Attempted Murder), that he had used as sources in the book. CJ&P/Christensen, agents for INA, objected and filed pleadings, stating those issues were totally irrelevant and immaterial to the libel suit. Judge Fishler upheld CJ&P/Christensen's request.

However at the Libel Trial, Christensen in his opening remarks, made a deliberate point of telling the jury that Appellant Mann was responsible for the shooting of Mark Wheeler. This in spite of the fact, Appellant Mann had been issued a Summary Judgement **With Prejudice** by The Honorable Judge David K. Winder of the United States District Court, District of Utah,

and Christensen was fully aware that Judge Winder had dismissed Suit C79-0772W (Attempted Murder) **With Prejudice**, as was Judge Fishler. Yet Judge Fishler still allowed Christensen's character assassination of Appellant Mann to that Jury. CJ&P /Christensen was personally present representing Wadsworth, when the Los Angeles Detectives testified that there was no evidence to implicate the Manns in the shooting of Wheeler in anyway, and that they had communicated this information to the Wheelers and also to Wadsworth. Judge Fishler & Dees had refused all discovery requests into this suit, (although this very suit C79-0772W, Attempted murder, was the source of a majority of the information in the book). For a period of four (4) years, on the basis of CJ&P /Christensen's pleadings, that the issues in that suit were totally irrelevant and immaterial.

In the case of the two witnesses in United States of America v. Wallach, et al, (commonly referred to as the Wedtec case) 935 F.2d 445

(2nd Cir. 1991), who had a record of lying and perjury and lied to the jury, it had already been documented that Wadsworth was a habitual liar and a sociopathic perjurer before he testified before the jury. CJ&P /Christensen spent six pages of trial transcript, addressing the jury, giving credibility to Wadsworth as a witness. Mr. Christensen, who was a past President of the Utah Bar and the attorney for Wadsworth, himself, encouraged perjury.

One example is found in the Trial Transcript Pg. 91, lines 23-25. wherein, Christensen asked Wadsworth,

Christensen:

"Did you ever tell any lies to the Court?"

Wadsworth:

"No, I did not".

and then on Page 70, line 24 and Page 71, lines 1 through 4,

Question by Christensen:

"Mr. Wadsworth, other than any complaint filed against you by Mr Mann as a result of this series of litigation that Mr. Sherlock talked about in opening

> statement, have you had any disciplinary proceedings against you in the Utah State Bar?

Wadsworth:

> "None, or anywhere else."

Christensen knew at the time he posed that question, that two lawyers, in good standing in the Utah State Bar, had filed a complaint with the Utah State Bar against Wadsworth, and Christensen had seen the letter. Exhibit 28, Appendix of Appellant, Suit No 90-4098, filed in United States Court of Appeals for the Tenth Circuit.

In the United States of America v. Wallach, et al, case, 935 F.2d 445 (2nd Cir. 1991) Circuit Judge, Altimari, in his concurring opinion stated:

> "The idea that the government would knowingly rely on false testimony in obtaining a conviction is repugnant to the very concept of ordered liberty and is perhaps the most grievous accusation that can be levelled against a prosecutor".

Wadsworth intentionally lied as his attorney, Christensen, knew that he would. Unlike

Guariglia in the United States of America v. Wallach, et al, trial, 935 F.2d 445 (2nd Cir. 1991), who was one of several witnesses, Wadsworth was the only witness to testify in his behalf. When Wadsworth was put on the stand to testify in front of the jury, Wadsworth committed intentional perjury, and Wadsworth **repeatedly perjured himself**.

In Appellant Mann's Libel trial there was no question that Judge Fishler and the opposing attorney knew of Wadsworth's perjury. Appellant Mann's attorney furnished documents to Judge Fishler documenting that Wadsworth, after having taken an oath to speak the truth, had made conscious decisions to lie to the jury. (The documentation supplied was the very same documentation used as sources in writing the book). Defendant CJ&P/Christensen, agents for INA, asked that the documents not be entered and the perjury be suborned. Judge Fishler made the conscious decision to deceive the jury. He agreed to suborned the perjury and the

documentation of the perjury of Wadsworth from the jury. This was not perjury about something entirely irrelevant to the case at bar, as in the Wedtec case, but germane issues precisely relative to Wadsworth actions in the case at bar. The documented criminal acts committed by W&C/Wadsworth, Young, Trost & Manning, were not in keeping with the image the legal and judicial profession wanted to project. In the past, single practitioners of law were involved with lesser infractions of the Code of Ethics of the Utah State Bar, and had been disciplined and/or disbarred. The actions of W&C/Wadsworth, Young, Trost & Manning, were actual criminal acts (felonies) and were suborned. The judge consciously suborned this perjury as requested by CJ&P/Christensen, and Appellate Judges, Bench, Billings, Garff, and Chief Justice Hall of the State Supreme Court, all consciously agreed to suborn this perjury and deception of the jury. It was repeatedly brought to their attention that **a career and habitual perjurer**

continued to perjure himself, in a trial over his credibility. This example is just one of many during the proceedings. It was obvious they were intent on not allowing the jury, or the public know, that a known habitual liar and perjurer had continued to maintain a position of credibility and good standing in the legal and judicial professions, while guilty of perjury, and other felonious acts. The fore-mentioned defendant judges agreed to keep the perjury and the subornation of perjury quiet. In their Opinion, (860373-CA) (Not for Publication), issued February 25, 1988, they made blatantly false statements relative to Appellant Mann failing to make requests for discovery, under URCP Rule 37, (app. J-1-J-5),or requesting to enter evidence, and UCA §76-8-511, (app. Y-2) falsified the public record in order to support their ruling.

On July 30, 1984, the Jury found Mann guilty of libel and slander, (without ever having been shown or told of the sources from

which Mann drew his conclusions or used as a basis for writing "One Against the Storm"). The jury never identified or named which passages of the book were libellous or slander, which complied with the Jury instructions mandated by Judge Fishler.

Twenty Six months after the Libel Trial was held, on September 23, 1985, hearing RPTR. TR. (6) lines 4-19, CJ&P /Christensen, agents for INA, filed a Motion for Supplemental Relief, requesting that Mann not be allowed to use anything in the book "One Against the Storm", without first applying to and clearing it through the Third District Court of Utah.

This was not a finding of the Jury, nevertheless, and over the protest of appellant's attorney that this would be a grave infraction of appellant's First Amendment Rights, defendant Judge Fishler granted the Motion, and defendant Judges, Bench, Billings, Garff & Hall all agreed to uphold this Court Order in their Opinion (Not for Publication)

dated February 25, 1988, No. 860373-CA.

On April 8, 1983, Suit CR83-1138 (Criminal), for theft and unlawful dealing with property of fiduciary, entitled *State of Utah v. Stanley C. Mann*, was filed in the Third District Court of Utah by Michael Christensen, Salt Lake County Attorneys' Office. (Jury Decision, Stanley C. Mann NOT GUILTY, on all counts)

Suit CR83-1138, was filed by the Salt Lake County Attorney's Office at the request of Judge Rigtrup, a family friend of the Wheeler family. Judge Rigtrup asked for a criminal investigation at the same time he was presiding over Suit C79-4063 (a civil suit to remove Mann as Trustee of the David Wheeler Trust), which had been filed originally by W&C /Wadsworth, and turned over to Trost and then to HR&O/Manning. Judge Rigtrup ordered Mann to provide discovery and confidential records. **The records were sealed by Order of the Court in Civil Suit No. C79-4063 (Trust).** However, Judge Rigtrup was conspiring with HR&O /Manning and **secretly** turning this

discovery material over to the Salt Lake County Attorney's office. **(This documentation was obtained from the Salt Lake County Attorney's files and other public files, through the Freedom of Information Act).**

The Salt Lake County Attorney's Office filed Suit CR83-1138, purely on the basis of allegations or conclusions drawn by HR&O/Manning in their **CONFIDENTIAL-Attorney/Client Privilege** file. (Compilation of biased and fraudulent information), UCA §76-8-506 (app.X-1) and their Motion for Partial Summary Judgement containing known false statements and acts attributed to Appellant Mann, in Civil Suit C79-4063 (Trust). The County Attorneys' complaint contained verbatim, the false statements and acts HR&O/ Manning attributed to Appellant Mann. Appellant Mann was found innocent of all charges in the criminal suit CR83-1138, and not one piece of evidence was entered to verify any of the allegations or conclusions which HR&O Manning had drawn that Appellant Mann had violated the

terms of the Trust. The Salt Lake County Attorneys' Office never subpoenaed or requested one single document from Appellant Mann. The acts of the defendants, in using their positions and influence, violated Appellant Mann's Civil Rights under the Fourth Amendment.

On October 30, 1983, Suit C83-7798, (Malicious Prosecution), entitled *Stanley C. Mann v. Wayne Wadsworth, Watkiss & Campbell, a professional corporation and Insurance by North America*, was filed in the Third Judicial District Court of Utah by Anthony M. Thurber. After filing the suit, Attorney Thurber wrote a letter to Wadsworth, Exhibit 40, Appendix of Appellant, Suit No. 90-4098, filed in United States Court of Appeals for the Tenth Circuit. Shortly thereafter, Attorney Thurber received a call from Wadsworth and resigned from the suit. Attorney Thurber refused to give any explanation, except that Wadsworth had called him about the suit and he couldn't discuss it.

Exhibit 40, Appendix of Appellant, No. 90-

4098, filed in the U. S. Court of Appeals for the Tenth Circuit, Appellant Mann in seeking representation in these matters, met with constant resistance. Appellant Mann was repeatedly told by prominent, well respected lawyers, (who knew the judges very well) "we won't handle a malicious prosecution suit, because Judges don't like malicious prosecution suits." The lawyers own words are more of an indictment of the legal and judicial professions, than anything Appellant Mann wrote in his book. Not liking something, and not upholding the duly constituted law, on something because you don't like it, are not compatible with a judge "honoring his oath of office". Even after hearing, repeatedly, how Judges felt about malicious prosecution suits, Appellant Mann totally underestimated the criminality of the defendant judges. Apparently, it doesn't disturb the judges when their peers in the legal profession have an open license to charge citizens with heinous crimes, such as the filing

of a civil suit for attempted murder, (without a shred of evidence), in order to extort advantages in other civil suits, in which he is serving as legal counsel, or has an interest.

Regardless of personal likes or dislikes, as an Officer of the Court, he has a responsibility to not engage in criminal acts, which are prejudicial to the administration of justice, or the Civil Rights of others.

On July 13, 1984, Suit C84-0617J, (malicious prosecution), entitled *Stanley C. Mann v. H. Wayne Wadsworth, Watkiss & Campbell and does I-X inclusive*, was filed in the United States District Court, District of Utah, by Stanley C. Mann, Pro se., (Dismissed on a Motion by CJ&P /Christensen, agents for INA).

On January 8, 1985, Suit C85-0119, (Malicious Prosecution), entitled *Stanley C. Mann v. H. Wayne Wadsworth, Watkiss & Campbell and Does 1-10 Inclusive*, was filed in the Third District Court of Utah by Lorin N. Pace. The Judge assigned to preside over the case was

defendant, John A. Rokich, who was associated in the practice of law with the firm of defendant Watkiss & Campbell, prior to his appointment to the Bench. Fourteen months after repeatedly requesting recusal of Judge Rokich and a change of venue outside the Third Judicial District, Attorney Pace abruptly withdrew as counsel, with no explanation. Appellant Mann was forced to represent himself Pro se., in Suit C85-0119 (malicious prosecution).

Judge Rokich repeatedly refused to recuse himself. Judge Rokich dismissed defendant W&C in violation of UCA §16-10-4, (app. O-1), UCA §16-11-5, (app P-1) Utah Constitution Article XII, Sec. 4. (app. N-1 - Corporations), which was repeatedly brought to Judge Rokich's attention. It was also brought to Judge Rokich's attention, that all Agreements were between the Wheelers and the Corporation of Watkiss & Campbell, all pleadings were filed "by and for" Watkiss & Campbell, all financing was provided by the Corporation of Watkiss &

Campbell, and that the Utah Supreme Court had ruled that "the employer is liable under the doctrine of respondeat superior." Stuart Krukiewicz et al v Charles Draper et al, Supreme Court No. 19504. In spite of this, (on a motion by CJ&P/Christensen) Judge Rokich dismissed Watkiss & Campbell under URCP Rule 56, (app. K-1-K-3), which was totally not applicable. Judge Rokich, (in clear defiance of the law) stated:

> **"I don't care what the law is, I'm not going to hold a corporation liable for acts of an employee."**

Appellant Mann asked again for the recusal of Judge Rokich. However, the new Chief Judge was Judge Fishler, who presided over the Libel Trial, and he refused to recuse Judge Rokich. Exhibit 49B, Appendix of Appellant, Suit No. 90-4098 filed in United States Court of Appeals for the Tenth Circuit.

Judge Rokich refused discovery into the records of Watkiss & Campbell, ignored the altering and destruction of evidence, dismissed Appellant Mann's duly subpoenaed witness, Salt

Lake County Detective, Jerry Thompson, (whose testimony would have perjured Wadsworth's account of his involvement with **"State Actors"** and Wadsworth's statements about **his knowledge of the shooting investigation**). Judge Rokich altered jury instructions, substituted a jury instruction which nullified a duly constituted law (malicious prosecution) and violated the Utah Rules of Evidence, to protect defendant, Attorney Wadsworth. Judge Rokich refused to allow documents of the repetitious perjury of Wadsworth to be used, or allow the jury to know that Wadsworth and other officers and directors of Watkiss & Campbell, admitted under oath, that:

> "All hard copy printouts of the cases involving the Wheelers (their family client) had been destroyed."
>
> "All internal memoranda referring to Wheeler cases were destroyed."
>
> "All records of the Wheeler cases were "purged" from Watkiss & Campbell computers."

a Felony, UCA §76-8-510, UCA § 76-8-511, (app: Y-1-Y-2).

The records show CJ&P/Christensen participated in this destruction. Not only did CJ&P/Christensen have the original documents, but they filed the pleadings acknowledging the destructions. Copies of the altered documents and the documentation of the destruction of other evidence are in the files of the Third District Court of Utah under Suit C85-0119.

All these acts were suborned by defendant Judges, Bullock, Greenwood and Newey. Defendant Judge Greenwood, was sitting on this case involving attorneys as defendants, while she was President of the Utah State Bar, having solicited and received the support of Watkiss & Campbell in her bid to be elected to that position.

On October 19, 1989, Suit 89-C-943-A, violation of civil rights, entitled *Stanley C. Mann v. Judge Kenneth Rigtrup, et al*, was filed in the United States District Court, District of Utah by Stanley C. Mann, Pro se. This Civil Rights suit also included Does I-X,

On May 21, 1990, Suit 89-C-943-A was Dismissed for Lack of Subject Matter Jurisdiction. App. A, pp. A-1-A-5.

On June 22, 1990 Appeal No. 90-4098 was filed in the United States Court of Appeals, for the Tenth Circuit, from a Decision of a District Court, District of Utah.

On June 6, 1991, Appeal No. 90-4098 was Dismissed for Lack of Subject Matter Jurisdiction. App. B pp. B-1-B-18.

REASON FOR GRANTING WRIT

I

JURISDICTION OF THIS MATTER BELONGS IN THE SUPREME COURT OF THE UNITED STATES

Appendix D-1-D-16, Appellant's Petition for a Transfer, Appellant's Second Motion to Transfer to the United States Supreme Court, and Appellant's Memorandum in Support of Appellant's Second Motion to Transfer Appeal to the United States Supreme Court, to cure want of jurisdiction, under 28 USC §1631, was denied by a ruling handed down by the United States Court

of Appeals for the Tenth Circuit on October 10, 1990. In denying the transfer of this case directly to the United States Supreme Court for want of jurisdiction, the Tenth Circuit, in effect took jurisdiction of this case, although this was contrary to the precedent the Tenth Circuit had set regarding subject matter jurisdiction, such as this "Case at Bar". App. B, p. B-7, after eight months, this same Court cited some of the same sources Appellant Mann had cited in his petitions for transferring this case directly to the United States Supreme Court, and stated:

> "Plainly, the Federal District Court was without jurisdiction to perform such a task which is reserved to the Supreme Court".

This ruling precipitated an eight month delay, and additional costs, from the irresponsible behavior of the Court.

II

> FEDERAL RULES OF CIVIL PROCEDURE RULE NO. 7. (a) PLEADINGS. "THERE SHALL BE A COMPLAINT AND AN ANSWER; . . . NO OTHER PLEADING SHALL BE ALLOWED". RULE NO. 8, GENERAL RULES OF PLEADING

> (d) AFFECT OF FAILURE TO DENY. "AVERMENTS IN A PLEADING TO WHICH A RESPONSIVE PLEADING IS REQUIRED OTHER THAN THOSE AS TO THE AMOUNT OF DAMAGES, ARE ADMITTED WHEN NOT DENIED IN THE RESPONSIVE PLEADING".

Appellant Mann's complaint No. 89-C-943-A, was filed October 19, 1989 in the United States District Court for the District of Utah. Not a single defendant has filed an answer to that complaint. Not a single defendant has denied a single charge which is contained in Appellant Mann's complaint. Not a single defendant has complied with the Federal Rules of Civil Procedure Rule No. 33 and Rule 34, (app. G-1), relative to discovery, which has been properly filed by Appellant Mann. Each defendant, and the Court, has ignored these motions. The District Court and the United States Court of Appeals Tenth Circuit have acted irresponsibly in making rulings, **without the Complaint being answered or discovery allowed.** Indisputable documentation has been provided that shows every one of the appellee conspirators have been involved in criminal acts, in one way or

another. From the beginning, when the lawyers involved made an ex-parte visit to a judge, in order to have a former law partner assigned as the alternative judge to hear the case, there has been an incestuous pattern of involvement. In light of documented facts, appellees' credibility is in question. Therefore, a dismissal for any reason would be premature and improper.

> "Although petitioner failed to make specific allegations to support his claims for relief under 42 USC § 1983, and although defendant might be entitled to immunity as government officials, motion to dismiss would be premature before defendant had filed answer and before there had been any discovery." United States ex rel. Priest v. Ziegler (1973, DC Pa) 61 FRD 440.

No one has denied that Mann's Civil Rights were violated. No one has denied that "Due Process of Law" was not given Mann. No one has denied the perjury. No one has denied the subornation of perjury. No one has denied the altering and destruction of evidence. No one has denied the suborning of the altering and destruction of evidence. No one has denied the

falsification of public records. No one has denied the unconstitutional dismissal of Mann's witness. No one has denied altering Jury Instructions. No one has denied giving Jury Instructions which illegally invalidated a duly constituted law. No one has denied using "Sealed Court Records" to extort Appellant Mann's customers. No one has ever denied that Mann is now under an unconstitutional order violating his First Amendment Rights of Free Speech. There is no Statute that lawyers and judges do not have to answer a Complaint or that lawyers and judges do not have to uphold constitutional rights of individuals. The Court records convict the defendants of these acts. Until appellees' are required to answer the complaint and provide discovery, Appellant Mann's Constitutional Rights under the Fifth, Seventh and Fourteenth Amendments continue to be denied. Appellant has been put through hell in the State Courts of Utah by these corrupt and immoral people because of their positions of

influence and power. They have abused their power in order to conceal the criminal acts of "well connected" members of the legal and judicial professions.

III

NO PARTIES, INCLUDING JUDGES, ARE IMMUNE FOR THE COMMISSION OF A CRIMINAL ACT, OR ANY OTHER INTENTIONAL ACT, WHICH KNOWINGLY VIOLATES ANOTHER INDIVIDUAL'S CIVIL RIGHTS

Appellant's Complaint does not allege the Judges "erred". Appellant is alleging the intentional violation of his Civil Rights, and that the Judges consciously committed criminal acts in so doing. Two of the defendant judges, who were presiding in judicial capacities on the case at bar, were also sitting in Executive positions on the State Bar Association and the Salt Lake County Bar Association. The defendants in the case at bar involved members of those associations, and this created a conflict of interest, which resulted in a disparate situation for Appellant Mann.

Immunity or no immunity, conspiracy or just

plain intellectual ignorance of the Constitution and Bill of Rights, in either case, the fact remains that Appellant Mann's Constitutional Rights were violated and continue to be violated. Regardless of any immunity, Appellant Mann is entitled to those rights NOW. There is no Constitutional provision or statute which deprives appellant of those rights due to immunity, ignorance of the law, or any other reason. The judges claim absolute immunity, which is immunity from what? Certainly they are not immune from responsibility for depriving someone of their Constitutional Rights.

> "Conduct by persons acting under color of state law which is wrongful under 42 USCS §1983 cannot be immunized by state law". Moore v. Buckles (1975, DC Tenn) 404 F Supp 1382.
>
> "In absence of congressional direction to contrary, higher degree of immunity from liability is not to be accorded to federal officials when sued for constitutional violation than is accorded to state officials when sued for identical violation under 42 USCS §1983. Butts v. Economou (1978) 438 US 478, 57 L Ed 2d 895, 98 S Ct 2894, on remand (SD NY) 466 F Supp 1351.

Federal Judges, Clairborne of Nevada, Nixon

of Mississippi, Collins of Louisiana, Aguilar of California, were all convicted of criminal acts, and although Judge Hastings of Florida was acquitted, none of these judges were able to use immunity as a recognized defense in the commission of a criminal act.

> "State-law immunities do not override cause of action under 42 USCS §1983, which imposes civil liability on any person who deprives another of his federally protected rights". Monell v Department of Social Services (1978) 436 US 658, 56 L Ed 2d 611, 98 S Ct 2018. (emphasis added).

When any measure of traditional or perceived immunity infringes upon the Constitutional Rights of anyone, the Constitution has to prevail. Only by this procedural adherence can the tyranny of a majority or a group of "self designated elites" in positions of power, who feel themselves to be the most moral segment of society, be contained from getting out of control and becoming tyrannical.

The fact is, 42 USCS 1983 was specifically designed to protect individuals from this very

type of action dispensed by the defendant judges.

> "Liability under 42 USCS § 1983 may be imposed upon official who knowingly acquiesces in misconduct of others." King v. Cuyler (1982, ED Pa) 541 F Supp 1230.

> "42 USCS § 1983 was designed to protect individuals against misuse of power made possible only because wrongdoer is clothed with authority of state law". Duchesne v. Sugarman (1977, CA2 NY) 566 F2d 187.

Utah law relative to abuse of offices states: UCA §76-8-201, (app. T-1) - Official misconduct - unauthorized acts or failure of duty:

> "A public servant is guilty of a class B misdemeanor if, with an intent to benefit himself or another or to harm another, he knowingly commits an unauthorized act which purports to be an act of his office, or knowingly refrains from performing a duty imposed on him by law or clearly inherent in the nature of his office."

The judges were asked by defendant lawyers & INA not to allow discovery into sources used in writing the book and the judges refused that discovery. The Appellate Judges refused to order that Appellant Mann's requests for discovery petitioned for under Rule 37, URCP, be

complied with, and then gave a false and fraudulent reason for why discoveries were not provided. Exhibit 11, of Docket 1, (Opinion 860373-CA, ¶ 4, Page 6), filed in the United States District Court, District of Utah, the judges falsified the record stating:

> "a review of the record indicates although defendant had the responsibility to compel timely discovery, he did not pursue it". See R. Civ. P. 37.

There are eight specific requests for discovery in the record, See Exhibits 1-10, Docket 1, and all these requests expressly requested discovery under URCP Rule 37, (app. J-1-J-5). The documents were paginated and were supplied to the three judges prior to their Opinion, and were discussed by Appellant Mann before these three judges in oral argument, prior to their agreement to sign the Opinion and concur. Justice Hall also saw all the Exhibits and knew that Bench, Billings & Garff's signed Opinion had been falsely stated. This was in violation of UCA §76-8-511, (app. Y-2), (falsifying public records).

Appellant Mann finds no Statute, or Oath of Office that states: "Judges will uphold only those Constitutional Rights or Statutes which they like". Surely a judge is accountable to the public for enforcing all Constitutional Rights and Statutes, and equally. In not doing so relative to the case at Bar, the judges confirm that the indictment of the Utah Judiciary, made by the well respected lawyers, Appellant Mann contacted, was correct. The judges have attempted to extend immunity for criminal acts to special "well connected" attorneys. For the judges to condone the criminal acts of the attorneys and law firms, (on the attorneys suggestion that the fore-mentioned criminal statutes are **null and void**, when performing "traditional lawyer functions", is abhorrent. In the process of accomplishing these goals, they have committed additional criminal acts themselves. None of these things could have been accomplished, or the crimes concealed, without the participation and the

commission of additional crimes by the conspiracy of silence, **agreed** to by the defendant judges. As Associate Justice White stated:

> "The key [ ], as with any conspiracy, is that ultimately the parties agreed to take the action." National Collegiate Athletic Association v. Tarkanian, G. Gunther, Constitutional Law, and Constitutional Rights, 11th Edition, 280 (1989 Supp.)

After agreeing to the conspiracy of concealment of criminal acts, they then completed the second element of conspiracy "an overt act" by signing their signatures to false statements.

> ". . .Thus the government's theory encompasses the two essential elements of a viable conspiracy charge - agreement and overt act." Unites States of America v. Wallach, et al, 935 F. 2d. 445 (2nd Cir. 1991).

The allegations of the criminal acts committed by the defendant judges was not based on merely "conclusory allegations" as stated by the Tenth Circuit Court of Appeals. The criminal acts, every one of them, are documented by Court records and transcripts. The intentional

violation of Appellant Mann's Civil Rights was not based on conjecture, but the documented facts. The facts have never been denied or refuted.

IV

MANN'S CIVIL RIGHTS WERE VIOLATED, WHEN THE COURT ORDERED THAT MANN MUST SUBMIT HIS REVISED MANUSCRIPT TO THE COURT BEFORE PUBLISHING FOR THEIR PRIOR CENSORSHIP.(C81-8644 LIBEL)

Over two years after Appellant Mann filed Complaint No. 89-C-943-A (Civil Rights) in the United States District Court, District of Utah, and documented the fact that he is under an order by the Third District Court of Utah requiring him to submit any material which he wants to use out of the book "One Against the Storm", for the approval of the Third District Court of Utah (prior censorship) before he can use any part of this book. **This matter has never been addressed.** This Court Order was not a finding of the jury, but a request made twenty-six months after the Libel Trial in a Motion for Supplemental Relief filed by

CJ&P/Christensen, agents for INA, and granted by the defendant Judge Fishler, over the protest of Appellant's attorney that this would be a grave infraction of Appellant's First Amendment Rights. This unconstitutional ruling has been upheld by defendant Judges Bench, Billing, Garff & Hall. Appellant Mann submits, that this is under the jurisdiction of the District Court and the Tenth Circuit Court. Had either one of these two Courts required the defendants to answer the complaint and provide discovery, prior to making **unjudicial dismissals**, they could not have overlooked the violation of Appellant Mann's First Amendment Rights.

On May 18, 1982, CJ&P/Christensen stated in open court that the purpose of the letter and the libel complaint was for the "killing of the book, the fastest and cheapest means possible." To accomplish this, CJ&P/Christensen/Wadsworth sent a threatening extortion letter to Appellant Mann's Confidential Contractual Customer list, a list provided to HR&O/Manning in the Trust

transaction and sealed by Court Order. To make certain any efforts of Appellant Mann to ameliorate the damages failed, Appellant Mann was denied his rights of due process of discovery, and to enter evidence as to the truthfulness of his expressed opinions, or statements contained in the book. CJ&P/Christensen, and the Court committed the criminals acts of suborning perjury and deceiving the jury, in accomplishing this, rather than determining the truthfulness of the statements in the book.

On September 23, 1985, a hearing was held relative to Plaintiffs Motion for Supplemental Relief. The Court exposed their involvement as a conspirator, rather than acting as a court. During this hearing, the following exchange took place:

RPTR.TR.(6), lines 4-19. ***

R. Christensen:

"I would suggest a general injunction, at some future time, if it is the desire of the defendants to republish the book, deleting the offending material, that they apply to

the court for permission to do so. He (the Court) can look at it at that time knowing specifically exactly what is being requested.

The Court:

"All right. The plaintiff's Motion to Dismiss the Counterclaim is granted. The plaintiff's Motion for Supplemental Relief is granted, and that's basically--the order would be that the defendants are hereby ordered to refrain from and are prohibited from publishing or distributing the book titled One Against the Storm. In the event the defendants wish to market the book, distribute the book, publish the book, they can apply to the court for relief from this order concerning various passages."

At the trial, Judge Fishler provided and had ordered the use of a General Verdict Form. When it was pointed out, by Mann's attorney, to the Court,

"that a more restrictive order than using the use of libelous material would be contrary to the provisions of the First Amendment." RPTR.TR.(7),lines 7-9,

The Court, (Judge Fishler), responded:

"All right, Why don't we make an **order** that if the book is republished **that no reference may be made to Mr. Wadsworth** the plaintiff?"

What more can be said to argue this point? Their concern was protecting Wadsworth, no matter what he had said or what he had done.

This is a violation of the First Amendment to issue an order that Mann must submit his revised manuscript to the court before publishing for their prior censorship. To protect one "well connected" individual, (Wadsworth) from having his criminal acts exposed, Appellant Mann's Civil Rights of Free Speech under the First Amendment and Mann's "Due process - Equal rights under the Fourteenth Amendment of the Constitution of the United States, were violated, **and continue to be violated**, as long as that Order stands!

CONCLUSION

For these various reasons, this Petition For Certiorari should be granted:

The issues of this case are and have repeatedly been stated, and **these issues have never been addressed.** The issues are:

The intentional commission & subornation of criminal acts to deprive Appellant Mann of his Civil Rights guaranteed under the Constitution of the United States.

If the Supreme Court is committed, as Associate Justice Kennedy emphatically stated in a recent public address:

> "...the Judicial profession is committed to the preservation of the primacy of the individual".

The Supreme Court cannot divert their eyes from these criminal acts, which invites the defendant judiciary to continue to grant license to the practice of parasitical plundering through criminal acts under the guise of "Zealous Advocacy", to strip citizens of their money, possessions and Civil Rights, for the purpose of lining the pockets of legal practitioners.

For the Supreme Court to also condone the criminal acts and unethical behavior of the judiciary in the case at bar, would violate the very motto on the Supreme Court building.

"Equal Justice Under the Law"

These defendants are asking this Court to commit a criminal act by suborning their crimes. For over two years and after being in two

courts, Appellant Mann's Civil Rights continue to be violated.

The Complaint has never been answered, the charges have never been addressed, and all discovery has been refused.

When Appellant Mann was charged in a Civil Law Suit with attempted first degree murder, without any evidence, by lawyers (W&C/Wadsworth and Young), Mann was required to answer the complaint, and provide discovery in compliance with the Federal Rules of Civil Procedure. In all the cases filed in the Third District Court of Utah, Appellant Mann was required to answer the complaint, and provide discovery in compliance with the Utah Rules of Civil Procedure. This was, also, the case in each and every one of the suits herein named.

The hard evidence documents that the defendant parties are guilty of "repugnant and grievous" criminal acts, and intentional violation of Appellant Mann's civil rights.

There is no "Equal Protection" when "Well

Connected" lawyers and judges are not required to comply with the same laws. **Appellant Mann's Complaint deserves its day in Court.** The charges need to be adjudicated on the facts.

Dated this 4th day of September, 1991.

Respectfully submitted,

Stanley C. Mann

Stanley C. Mann, Pro se.,

APPENDIX A

ORDER AND JUDGMENT FROM
UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

UNITED STATES COURT OF APPEALS

TENTH CIRCUIT

STANLEY C. MANN	*	
	*	
Plaintiff-Appellant,	*	
	*	No. 90-4098
vs.	*	(D.C. No.
	*	89-C-543-B)
	*	(D. Utah)
JUDGE KENNETH RIGTRUP, DAVID B. DEE, PHILIP R. FISHLER, REGNAL W. GARFF, JR., RUSSELL W. BENCH, JUDITH M. BILLINGS, GORDON R. HALL, PAMELA GREENWOOD, DENNIS J. FREDERICK, JOHN A. ROKICH, WATKISS & CAMPBELL INC. H. WAYNE WADSWORTH, STEPHEN A. TROST, DAVID S. YOUNG, CHRISTENSEN JENSEN & POWELL INC., RAY R. CHRISTENSEN, HOLME ROBERTS & OWEN INC., BRENT V. MANNING and INSURANCE BY NORTH AMERICA,	*	
	*	
Defendants-Appellees.	*	

ORDER AND JUDGMENT*

Before LOGAN, MOORE and BALDOCK, Circuit Judges.**

---

* This order and judgment has no precedential value and shall not be cited, or used by any court within the Tenth Circuit, except for purposes of establishing the doctrines of the law of the case, res judicata, or collateral estoppel. 10th Cir. R. 36.3.

** After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The cause therefore is ordered submitted without oral argument.

Plaintiff-appellant Stanley C. Mann appeals pro se from the dismissal of his 28 U.S.C. § 1983 action against former and present members of the Utah state judiciary (judges), lawyers and law firms involved in prior state court proceedings and the insurance carrier for one of the firms (private defendants). Mann contends that the judges and private defendants violated his civil rights during the course of various litigated matters concerning the custody and maintenance of David Wheeler, the adopted son of Mann's deceased niece. On motions to dismiss, the district court held that: (1) it lacked jurisdiction to review decisions by state courts; (2) the judges were immune from suit under § 1983; (3) the private defendants were not subject to suit under § 1983 given a lack of state actions; and (4) Mann's actions were time-

barred. The district court dismissed those portions of plaintiff's complaint which sought review of state court decisions and granted the motions to dismiss filed by the judges and private defendants. On appeal, Mann takes issue with each holding. We affirm.

We have reviewed the briefs and the record on appeal construing Mann's pro se pleadings liberally as required under Haines v. Kerner, 404 U.S. 519, 520-21 (1971). Mann's § 1983 action seeks federal court review of particular applications of law by the Utah state courts. Plainly, the federal district court was without jurisdiction to perform such a task, which is reserved to the Supreme Court. See Atlantic Coast Line R.R. Co. v. Brotherhood of Locomotive Eng'rs, 398 U.S. 296 (1970); Van Sickle v. Holloway, 791 F.2d 1431, 1436 (10th Cir. 1986). The allegedly unconstitutional conduct of the judges involves action within their jurisdiction; consequently, they are absolutely immune from suit under § 1983. See Stump v.

Sparkman; 435 u.s. 349, 356-57 (1978); Van Sickle, 791 f.2D AT 1434-35. Mann's complaint failed to present specific facts beyond conclusory allegations tending to show agreement and concerted action between the private defendants acting under color of state law and may not be held liable under § 1983. See Adickes v. S. H. Kress & Co., 398 U.S. 144, 152 (1970); Sooner Products Co. v. McBride, 708 F.2d 510, 512 (10th Cir. 1983); Schaffer v. Cook, 634 F.2d 1259, 1260-61 (10th Cir. 1980), cert. denied. 451 U.S. 984 (1281). In light of our resolution of the above issues, we need not consider whether Mann's action was time-barred.[1]

---

[1] The district court determined that because the relevant allegations contained in Mann's 120-page complaint fell outside the two-year limitation period under current Utah law, Utah Code. Ann. § 78-12-28(3) (1987), his action was time-barred. See Wilson v. Garcia, 471 U.S. 261, 279-80 (1985) (state law determines applicable limitation period under § 1983). Mann's complaint was filed October 18, 1989, but contains allegations occurring when the limitation period was four years.

On April 27, 1987, the two-year limitation period took effect. Under Utah law, the new

limitation period is a procedural change which applies even though it shortens the allowable period for pre-existing claims, provided the shortened period allows a plaintiff a reasonable time in which to bring an action. Greenhalgh v. Payson City, 530 P.2d 799, 803 (Utah 1975); Day & Night Heating Co. v. Ruff, 432 P.2d 43, 44 (Utah 1967). See also Pfeiffer v. Hartford Ins. Co., 929 F.2d 1481, 1493 n.10 (10th Cir. 1991) (discussing change in Colorado limitation statute).

thus, we agree with the district court's dismissal of the complaint against the judges and private defendants. Mann v. Rigtrup, No. 89-C-943-B, unpub. order (D. Utah May 23, 1990).

AFFIRMED.

Entered for the Court

Bobby R. Baldock
Circuit Judge

APPENDIX B

ORDER ON MOTIONS TO DISMISS

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

STANLEY C. MANN Plaintiff, vs. JUDGE KENNETH RIGTRUP, DAVID B. DEE, PHILIP R. FISHLER, REGNAL W. GARFF, JR., RUSSELL W. BENCH, JUDITH M. BILLINGS, GORDON R. HALL, PAMELA GREENWOOD, DENNIS J. FREDERICK, JOHN A. ROKICH, WATKISS & CAMPBELL INC. H. WAYNE WADSWORTH, STEPHEN A. TROST, DAVID S. YOUNG, CHRISTENSEN JENSEN & POWELL INC., RAY R. CHRISTENSEN, HOLME ROBERTS & OWEN INC., BRENT V. MANNING and INA, Defendants-Appellees.	)))) NO.C89-C-943-A)))))))))))))))

ORDER ON MOTIONS TO DISMISS

This matter comes before the Court on defendants' motions to dismiss. The Court having reviewed the pleadings, having heard the arguments of counsel, and being fully advised in the premises, now FINDS and ORDERS as follows:

Background

Plaintiff Stanley C. Mann brought this pro se action under 42 U.S.C. § 1983 against present and former members of the Utah District Court, Court of appeals and Supreme Court, as well as attorneys and law firms involved in previous court proceedings in which Mann was a party, and a company which provided insurance to one of the law firms.

The action seems to have its origins in a custody battle between Mann and his wife and Mark Wheeler for the custody of David Wheeler, Joan Wheeler and David had been staying with the Manns in late 1978, when Joan died in a airplane crash. The custody battle ensued, during which Mark Wheeler was represented by defendant H. Wayne Wadsworth of the defendant firm Watkiss & Campbell, Inc., and by defendant David S. Young.

Mann alleges that Wadsworth, as principal for Watkiss & Campbell, made false allegations against him and filed fraudulent petitions in relation to the custody action. Mann further

alleges that Wadsworth and Young framed him and brought suit to have him removed as trustee of David Wheeler's trust so that Mark Wheeler could gain control of the funds and thus pay the accumulated attorney fees.

Wheeler later filed suit against Mann for interference with parental rights. He was represented in that action by defendant Stephen A. Trost.

In a related action brought by Mann against Wadsworth and Watkiss & Campbell, defendant Ray R. Christensen and the defendant firm Christensen, Jensen & Powell, represented Wadsworth and Watkiss & Campbell. Defendant Insurance Company of North America was the malpractice insurance carrier for Wadsworth & Campbell.

Finally, Mann's claim against defendant Brent V. Manning and the defendant firm Holme, Roberts & Owen arises from the allegation that these defendants resorted to improper methods to win partial summary judgment against Mann in an

action by Mark Wheeler as guardian ad litem of David Wheeler against Mann. In addition, Mann alleges that Holme, Roberts & Owen and Brent V. Manning improperly gave a list of distributors of a book written by Mann to Wadsworth, so that Wadsworth could name those distributors in his libel suit against Mann.

Mann's 120-page complaint appears to contain four causes of action. The first alleges defendants Watkiss & Campbell; Wadsworth; Young: Trost: Christensen, Jensen & Powell: Ray Christensen; and Insurance Company of North America deprived Mann of his constitutional rights when they filed fraudulent pleadings, perjured affidavits, gave perjured testimony and destroyed and altered records. It also alleges that defendant Judges Joan A. Rokich, J. Robert Bullock, Pamela Greenwood and Robert L. Newey deprived Mann of his constitutional rights by conducting proceedings before them in a way generally prejudicial and unfair to the plaintiff. Mann seeks damages for business and

reputation loss, physical, mental and emotional distress and suffering, and fees, in addition to punitive damages. He further seeks to have the decisions of the state courts set aside.

Mann's second cause of action charges Watkiss & Campbell; Wadsworth; Young; Trost; Home Roberts & Owen; Manning; Christensen, Jensen & Powell; Christensen: Insurance Company of North America; and Judges Kenneth Rigtrup and Dennis J. Frederick with depriving Mann of his constitutional rights in connection with the civil action entitled David Mark Newton Wheeler, a Minor Child, by and through his Guardian Ad Litem, Mark Wayne Wheeler v. Stanley C. Mann, 79-4063. Mann alleges that false and fraudulent evidence was offered and admitted in that proceeding, partial summary judgment was granted incorrectly, and without the required findings of fact and conclusions of law. Count II also charges Manning and Holme, Roberts & Owen with releasing a confidential list of distributors of Mann's book, "One Against the Storm," in

violation of a court order sealing those records. Mann asks that the order of the state court be set aside, and seeks damages and fees.

Mann's third cause of action charges defendants Watkiss & Campbell; Wadsworth; Insurance Company of North America; Christensen, Jensen & Powell; Christensen: Holme, Roberts & Owen; Manning; and Judges David B. Dee, Philip R. Fishler, Regnal W. Garff, Russell W. Bench, Judith M. Billings and Gordon R. Hall with depriving Mann of his constitutional rights in connection with the civil action entitled Wadsworth v. Stanley Mann et al., 81-8644. Mann alleges that action resulted in the unconstitutional restraint of his rights of free speech; he seeks to have the state court decisions set aside and asks for damages.

Mann's fourth cause of action charges Judge Dee, Fishler, Rokich, Frederick, Rigtrup, Garff, Bench, Billings, Greenwood, Bullock, Newey, and Hall with depriving him of his constitutional rights by ruling against him or denying him

hearings in order to protect each other and a corrupt judicial system. Mann seeks an investigation by the United States Justice Department and fees.

All the defendants have moved to dismiss. In considering a motion to dismiss, this Court must take the allegations of the pleadings as true and must construe them most favorably to the plaintiff. We will not grant a motion to dismiss unless it appears beyond doubt that Mann could prove no set of facts supporting his claim which would entitle him to relief. Huxall v. First State Bank, 842 F.2d 249, 250-51 (10th cir. 1988).

Jurisdiction

This Court must first address the threshold question whether it has jurisdiction in this case. The Tenth Circuit has held that review of state court judgments in judicial proceedings may only be had in the United States Supreme Court. Van Sickle v. Holloway, 791 F.2d 1431, 1436 (10th Cir. 1986). "Federal district courts

do not have jurisdiction over challenges to state-court decisions in particular cases arising out of judicial proceedings even if those challenges allege that the state court's action was unconstitutional."" Id. (quoting district of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 486 (1983)).

Because Mann appears before this Court pro se we give his argument every favorable inference. American Emp. Ins. Co. v. King Resources Co., 556 F.2d 471, 477 (10th Cir. 1977). We therefore consider the possibility that a federal district court does have jurisdiction to hear appeals of state court decisions, in certain limited fact situations. When a plaintiff challenges a rule or a law of general application, as opposed to challenging the disposition of a particular judicial proceeding, the court may consider the constitutionality of the challenged rule. Razatos v. Colorado Supreme Court, 746 F.2d 1429 (10th Cir. 1984) cert. denied. 471 U.S. 1016 (1985). This Court,

however, is unable to find any facts in the case before us that would fit into the exception recognized in Razatos. The plaintiff does not challenge a rule of law; rather, he seeks review of the disposition or particular judicial proceedings.

This Court is without jurisdiction to hear those arguments in which the plaintiff seeks to have the state court orders set aside. The Court will therefore not consider any of the claims in which Mann alleges that state court decisions were either substantively or procedurally defective.

Judicial Immunity

To the extent that there is jurisdiction to hear the plaintiff's claims against the various state court judges, the Court holds that the action against the judges is barred by judicial immunity. The value to the courts of being free from harassment by dissatisfied litigants far outweighs the danger that some wrongs may go unredressed. Stump v. Sparkman, 435 U.S. 349

(1978). For that reason, "a judge is entitled to judicial immunity if he has not acted in clear absence of all jurisdiction and if the act was a judicial one." Martinez v. Winner, 771 F.2d 424, 434 (10th Cir. 1985) vacated and remanded on other grounds, 475 U. S. 1138 (1986). All the acts of the defendant judges complained of by the plaintiff were acts undertaken in their judicial capacities. The Tenth Circuit affirmed the dismissal of a similar case in Van sickle, holding that the doctrine of judicial immunity barred the plaintiff, "an unsuccessful and dissatisfied state-court litigant," from "harassing the state court judges with allegations of 'malice and corruption'" in federal court. 791 F.2d at 1435. The judges are immune from liability. See Myers v. Garff, 876 F.2d 79 (10th Cir. 1989).

Mann argues that judicial immunity does not apply to this case, and he cites Facio v. Honorable Maurice Jones, et al., No. 88-C-965G (D. Utah May 25, 1989), in support of that

argument. In Facio the court recognized the limited exception to judicial immunity, "when the plaintiff seeks declaratory and prospective injunctive relief rather than monetary damages," Slip op. at 14 (citing Pulliam v. Allen, 466 U. S,. 522 (1984)). However, the relief sought by Mann before this Court is not prospective. He asks for review of the judgments entered by the defendant judges. That is clearly retroactive relief, and the action is barred by judicial immunity. Mann also asks for an order compelling review of the Utah state judiciary by the United States Department of Justice. That is not an order this Court is empowered to grant.

The motion to dismiss of the defendant judges Kenneth Rigtrup, David B. Dee, Philip R. Fishler, Regnal W. Garff, Russell W. Bench, Judith M. Billings, Gordon R. Hall, Pamela Greenwood, J. Robert Bullock, Robert L. Newey, Dennis J. Frederick, and John A. Rokich is therefore GRANTED.

Color of state law

The defendant attorneys, law firms, and Insurance Company of North America argue that the action against them should be dismissed because they did not act under color of state law. 42 U.S.C. § 1983 provides:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or caused to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. . . .

"The obvious purpose of Congress in the enactment of § 1983 was to provide a remedy to parties deprived of constitutional rights by a state official's abuse of his position while acting under color of state law." D.T. by M. T. v. Independent School Dist. No. 16, 894 F.2d 1176, 1887 (10th Civ. 1990). None of the remaining defendants is a state official, and cannot be said to be acting under color of state law. "[L]awyers do not act under color of state

law solely by engaging in private litigation on behalf of their clients." Shaffer v. Cook, 634 F.2d 1259, 1261 (10th Cir. 1980), cert denied, 451 U.S. 984 (1981) (quoting Brown v. Chaffee, 612 F.2d 497, 591 (10th Cir. 1979)). Mann has not suggested any way in which the insurance company could be considered a state actor. The Tenth Circuit has held, however, that a private individual may be considered a state actor if "he acted together with or has obtained significant aid from state officials, or his conduct is otherwise chargeable to the state." Barnard v. Young, 720 F.2d 1188. 1189 (10th Cir. 1983).

In Norton v. Liddel, 620 F.2d 1375 (10th Cir. 1980), the court established a test to determine when a private individual can be held to be actively conspiring with an immune state official to deprive another of his rights under § 1983. The court held the "critical inquiry in making this determination is: Has the plaintiff demonstrated the existence of a significant

nexus or entanglement between the absolutely immune State official and the private party in relation to the steps taken by each to fulfill the objects of their conspiracy?" Id. at 1380. In deciding on a motion to dismiss, we take as true the allegations in Mann's complaint, and assume that he was deprived of his constitutional rights. We limit our analysis to whether he has alleged a sufficient nexus or entanglement between these defendants and the defendant judges to survive a motion to dismiss.

In Sooner Products Co. v. McBride, 708 F.2d 510 (10th Cir. 1983), the Tenth Circuit elaborated on the test it formulated in Norton, holding that "mere conclusory allegations with no supporting factual averments are insufficient; the pleadings must specifically present facts tending to show agreement and concerted action. The standard is even stricter where the state officials allegedly involved in the conspiracy are immune from suit, as are the state court judges here." Sooner Products, 708

F.2d at 512 (citations omitted); Durre v. Dempsey, 869 F.2d 543 (10th Cir. 1989).

Mann's complaint contains only conclusory allegations unsupported by facts tending to show agreement or concerted action. Like the complaint before the Tenth Circuit in Shaffer, nothing in Mann's complaint "indicates that the court or the attorneys were acting outside the confines of the neutral function of a judicial forum." 634 F.2d at 1260..

As for the insurance company, Mann's complaint contains no allegations of any connection at all between it and the defendant judges. The required nexus between any of the remaining defendants and the judges is clearly lacking, and the motion to dismiss of Watkiss & Campbell; H. Wayne Wadsworth; Stephen A. Trost; David S. Young; Christensen, Jensen & Powell; Ray R. Christensen; Holme, Roberts & Owen; Brent V. Manning; and Insurance Company of North America is therefore GRANTED.

Statute of Limitations

All of the private defendants have raised as alternative grounds for dismissal the argument that Mann's claims against them are time-barred. State law determines the statute of limitations for § 1983 claims. Wilson v. Garcia, 471 u.S. 261 (1985). Utah law requires claims "for injury to the personal rights of another as a civil rights suit under 42 U.S.C. § 1983" to be filed within two years of the time the cause of action arose. Utah Code Ann. § 78-12-28(3) (1989). That amendment did not take effect until April 27, 1987, and under the prior statute the period of limitations was four years. The Utah Supreme Court, in construing a similar statue of limitations reduction in a medical malpractice suit, held that the new statute of limitations is effective from the date of the enactment of the new statute. Greenhalgh v. Payson City, 530 F.2d 799 (Utah 1975). That is, even when the plaintiff's cause of action arose under the four-year statute of limitations, he will have no more than two years

from the date of the enactment of the two-year statute of limitations to bring his cause of action.

Mann filed his complaint October 19, 1989. Only allegations which arose since October 19, 1987 can survive the limitation period. None of the actions alleged by Mann in his complaint occurred since October 19, 1987, and the action is therefore time barred. Mann's attempt to salvage his claims by alluding to appeals and to actions in other jurisdictions is unavailing. Even if those allegations had been included in his complaint, an appeal does not revive a cause of action arising from the underlying proceeding, and an action taken in New Jersey courts is far beyond this Court's jurisdictional reach.

THEREFORE, it is

ORDERED that those portions of plaintiff's complaint in which he seeks to have state court proceedings set aside or declared invalid be DISMISSED for lack of subject matter

jurisdiction. It is further

ORDERED that the motion to dismiss of the defendant judges be, and the same hereby is GRANTED. It is further

ORDERED that the motions to dismiss of the private defendants be, and the same hereby are, GRANTED.

Dated this 21st day of May, 1990.

_____

CHIEF JUDGE,
UNITED STATES DISTRICT COURT

APPENDIX C

NOTICE OF APPEAL AND MOTION TO TRANSFER

NOTICE OF APPEAL TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT FROM

A DECISION OF A DISTRICT COURT

United States District Court
for the District of Utah

File Number C89-C-943-A

Stanley C. Mann	*	
	*	
Plaintiff	*	NOTICE OF
	*	APPEAL
vs.	*	
	*	AND
Judges;Kenneth Rigtrup,	*	PETITION FOR
David B. Dee, Philip R.	*	TRANSFER
Fishler, Regnal W. Garff,	*	
Russell W. Bench, Judith	*	
Billings, Gordon R. Hall,	*	
Pamela Greenwood, Dennis	*	
J.Frederick, John Rokich	*	
Watkiss & Campbell Inc.	*	
H. Wayne Wadsworth,	*	
Stephen A. Trost, David	*	
S. Young, Christensen	*	
Jensen & Powell Inc.,	*	
Ray R. Christensen,	*	
Holme Roberts & Owen Inc.	*	
Brent V. Manning	*	
Insurance by North	*	
America and Does 1-10.	*	
	*	
Defendants.	*	

Notice is hereby given that Stanley C. Mann plaintiff above named, is hereby appealing to the United States Court of Appeals from the

judgment dismissing the above named defendants on the 24th day of May, 1990. The basis given for dismissal was:

1. Lack of "Subject matter jurisdiction."
2. Expiration of the Statute of Limitations for specific defendants.

INASMUCH AS:

1. The complaint enumerated numerous intentional violations of plaintiff's Civil Rights, the jurisdiction for those violations properly belongs in the Federal Courts, as cited in plaintiff's complaint per 42 USC §1983, and 28 USC §1343.
2. The action was filed within the period of the Statute of Limitations which were in effect at the time the violations occurred. The time of the Statute of Limitations for Federal Civil Rights actions was reduced by 50% by an amendment under Utah law on April 27, 1987 and declared retrospective, while these matters were in the appeal process.

thereby impairing plaintiff's vested rights.

3. Plaintiff currently is under a Utah State Court order, which orders plaintiff to give prior screening and censure privileges to the Third District Court of Utah, on any manuscript in which plaintiff refers to the names or acts of particular lawyers or judges in Utah. This is an indisputable violation of Constitutional Rights by State judiciary.

4. WHEREAS, the basis cited by the United States District Court for the Lack of Jurisdiction was:

> "The Tenth Circuit has held that review of state court judgments in judicial proceedings may only be had in the United States Supreme Court." Van Sickle v. Holloway, 791 F.2d 1431, 1436 (10th Cir. 1986).

plaintiff petitions the Court to transfer this appeal directly to the United States Supreme Court per 28 USC §1631 to cure the want of jurisdiction previously declared by the Tenth Circuit Court of Appeals.

Dated this 22nd day of June, 1990.

Stanley C. Mann, Pro se.,
P. O. Box 17905
Salt Lake City, Utah 84117
Tele: (801) 278-9460

APPENDIX D

APPELLANT'S SECOND MOTION TO
TRANSFER APPEAL TO THE
UNITED STATES SUPREME COURT

MEMORANDUM IN SUPPORT OF
APPELLANT'S SECOND MOTION TO TRANSFER
APPEAL TO THE UNITED STATES SUPREME COURT

APPELLANT'S OPPOSITION TO SUPREME COURT RULING
FILED JUNE 30, 1988

Stanley C. Mann, Pro se.,
P. O. Box 17905
Salt Lake City, Utah 84117
Telephone: (801 278-9460

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

STANLEY C. MANN	)APPELLANTS SECOND
	)MOTION TO TRANSFER
Plaintiff/Appellant	)APPEAL TO THE UNITED
	)STATES SUPREME COURT
vs	)
	)
JUDGES, KENNETH RIGTRUP)	
et al.,	)Appeal Case No. 90-4098
	)
Defendants/Appellees	)Lower Court Case
	) No. 89-C-943B

Pursuant to 28 USC § 1631, Plaintiff /Appellant, Stanley C. Mann, moves this Court for an Order transferring this action directly to the United States Supreme Court to cure the want of Jurisdiction previously declared by the United States Court of Appeals, for the Tenth Circuit, as a matter of law and as set forth more fully in the accompanying memorandum.

Dated this 3rd day of August, 1990.

Stanley C. Mann, Pro se.,

Stanley C. Mann, Pro se.,
P. O. Box 17905
Salt Lake Citv, Utah 84117
Telephone: (801 278-9460

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

STANLEY C. MANN	)	MEMORANDUM IN
	)	SUPPORT OF
	)	APPELLANT'S SECOND
Plaintiff/Appellant	)	MOTION TO TRANSFER
	)	APPEAL TO THE
vs	)	UNITED STATES
	)	SUPREME COURT
JUDGES, KENNETH RIGTRUP	)	
et al.,	)	Appeal Case
	)	No. 90-4098
Defendants/Appellees	)	
	)	Lower Court Case
	)	89-C-943B

BACKGROUND

On October 19, 1989, Appellant filed a civil rights action under 42 United States Code 1983 for the violation of his civil rights under the First, Fifth, Sixth, Seventh and Fourteenth Amendments to the United States Constitution. Complaint Preliminary Statement ¶ 1. Appellant alleged a conspiracy to violate his civil rights by all Appellees. Complaint Preliminary

Statement ¶¶ 2 & 21. Declaratory relief was sought from the judges for the intentional violation of appellant's civil rights. Complaint Preliminary Statement ¶¶ 3 through 21. First Cause of Action ¶ 65(A), Second Cause of Action ¶ 16(A), Third Cause of Action ¶ 31(A), and Fourth Cause of Action, Complaint Page 118 through Page 120. Appellant sought a special investigation by the United States Justice Department into the actions and practices of the Third District Court, Court of Appeals and the Utah Supreme Court, which violates the 9 Constitutional rights of "Non-Lawyers", who represent themselves Pro se., Complaint Page 118 through Page 120.

Without addressing the following allegations of the complaint: Obstructing Justice - UCA § 76-8-306, False statements and perjury - UCA § 76-8-502-505, Tampering with a Witness - UCA § 76-8-508, Tampering with evidence - UCA § 76-8-510, Extortion - UCA § 76-6-406, Pattern of unlawful activity - UCA § 76-10-1601 and UCA §

76-10-1602, and a continuing Restraining Order against Appellant in violation of his First Amendment Rights, the Court, on May 21, 1990, dismissed all Appellees. The Court ignored the alleged conspiracy and dismissed the Appellee Judges for "Lack of Subject Matter Jurisdiction".

The Court stated:

> "This Court is without jurisdiction to hear those arguments in which the plaintiff seeks to have the state court orders set aside. The Court will therefore not consider any of the claims in which Mann alleges that state court decisions were either substantively or procedurally defective." and,
>
> "The Tenth Circuit has held that review of state court judgments in judicial proceedings may only be had in the United States Supreme Court. Van Sickle v. Holloway, 791 F.2d 1431, 1436 (10th Cir. 1986). "Federal district courts do not have jurisdiction over challenges to state-court decisions in particular cases arising out of judicial proceedings even if those challenges allege that the state court's action was unconstitutional.'" Id. (quoting District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 486 (1983)).

ARGUMENT I

The Court furthermore stated:

> "Mann's complaint contains only conclusory allegations unsupported by facts tending to show agreement or concerted action. Like the complaint before the Tenth Circuit in Shaffer, nothing in Mann's complaint "indicates that the court or the attorneys were acting outside the confines of the neutral function of a judicial forum" 634 F.2d at 1260."

The statement is totally inaccurate as the complaint documented the conspiracy and those acts are again cited in "Appellant's Response in Opposition to Appellees' Motion to Dismiss, under Statement of the Case, Page 2 through Page 17.

ARGUMENT II

The court refused to apply the Statute of Limitation for Federal Civil Rights, which was in effect at the time the violations occurred, but reduced the time by 50% under an amendment to Utah Law passed on April 27, 1987, while these matters were in the appeal process, thereby impairing Appellant's vested rights. This ruling was made in spite of the fact that in the case cited to reduce the time, Maddocks v. Salt Lake City Corp., 740 P.2d 1337, 1339

(Utah 1987) the Utah Supreme Court stated the following:

> "After this action was filed, the Utah Legislature amended section 78-12-28 to specifically apply a two-year statute of limitation to § 1983 actions. Utah Code Ann. § 78-12-28(3) (1987). The amendment does not, however, apply in this action because the amendment is applicable only to causes of action arising after April 27, 1987,. 1987 Utah Laws. ch. 19, § 6. We leave the validity of that restriction for later adjudication." Maddocks v. Salt Lake City Corp., 740 P.2d 1337, 1339 (Utah 1987) Footnote 1.

Using as an example, the matter in the Second Cause of Action in the complaint (Trust C-79-4063), in September of 1983, Appellee Judge Dennis J. Frederick issued a Summary Judgment, even though a Certified Public Accountant's records and sworn testimony disputed the allegations in the Motion for Summary Judgment upon which the decision was based to deny Appellant a trial.

Within thirty days, appellant filed a Notice of Appeal. Appellant's brief was filed May 21, 1984 with the Utah Supreme Court. Respondent's brief was filed June 21, 1984. Over two years

and seven months later, Oral arguments were heard. At this time the documentation of the falsity of the allegations in the Motion for Summary Judgment were presented to the Utah Supreme Court proving there were "Material issues of fact in dispute" and cited Webbe v. McGhie Land Title Co., 549 F.2d 1358 (10th Cir. 1977); Frey v. Frankel, 361 F. 2d 437 (10th Cir. 1966) and Rule 56, URCP. After a period of five months the Utah Supreme Court completely ignored the established criteria and violated their own ruling in the case of Dipo v. Dipo, 526 P.2d 923, 926 (Utah 1974).

The Court stated:

> "However defendant did not assert before the trial court that the terms of the trust instrument entitled him to invest monies in or to lend trust monies to his own companies; nor did he refer to the above-quoted language. Hence, defendant's claim is not properly before this court since it may not be raised for the first time on appeal. Franklin Fin v. New Empire Dev. Co., 659 P.2d 1040, 1045 (Utah 1983). We, therefore, decline to consider the argument".

That statement was false. The only appearance before the trial court (Appellee

Judge, Dennis J. Frederick) was August 18, 1983. The transcript of that hearing on Pages 27 and 28 and on pages 37 thru page 38, provides indisputable evidence that the Utah Supreme Court's statement was false. On July 8, 1988, Appellant filed a pleading with the court and drew to their attention that the reasons given for not considering Appellant's Argument were false. A copy of Appellant's Opposition to Supreme Court Ruling filed June 30, 1988, is attached as Exhibit I. Please note: Exhibit I, Page 2, Argument 1(b) is a copy of the pleading. Attached to the pleading, that was filed, was a copy of the transcript of the hearing, documenting that Appellant had asserted the argument before the trial court, refuting the court's claim.

On November 4, 1988, Appellant was notified that the request for re-hearing was being denied, in spite of the documented evidence proving that the allegations in the Motion for Summary Judgment were false and that the court

had erred in stating that Appellant had not asserted his claim previously.

ARGUMENT III

The Third Cause of Action in Appellant's complaint arose before April 27, 1987 and continued on past that date, as well, and Appellant currently is under a Utah State Court Order, which orders plaintiff to give prior screening and censure privileges to the Third District Court of Utah, on any manuscript in which plaintiff refers to the names or acts of particular lawyers or judges in Utah. This is an indisputable violation of Constitutional Rights by the State judiciary.

ARGUMENT IV

While the First Cause of Action in Appellant's complaint arose before 1987, the Utah Court of Appeals did not hand down a ruling until June 20, 1989. This Cause of Action is a documented record of judicial corruption denying Appellant's civil rights to conceal the criminal

acts of a "Special" law firm and "Special" attorneys. Complaint Facts ¶¶ 216 through 222.

ARGUMENT V

The Fourth Cause of Action is a charge of gross corruption, intentional obstruction of justice, violation of the Oath of Office and the commission of criminal acts, comprising a "Pattern of Unlawful Activity." The example found in Argument II is just one example of the many acts of corruption documented by the record.

ARGUMENT VI

On June 21, 1990, Appellant was informed, by telephone, by the United States Supreme Court that Appellant's action could not be filed directly with the United States Supreme Court but would have to be filed with the United States Court of Appeals for the Tenth Circuit and come through the Court of Appeals to the United States Supreme Court and that this could be accomplished pursuant to 28 USC § 1631 to

cure the want of jurisdiction previously declared by the Tenth Circuit Court of Appeals.

CONCLUSION

The record shows that appellant made every effort possible to litigate these issues in the state courts, and Appellee Judges' allegations to the contrary are ludicrous.

Appellant hereby moves this Court, pursuant to 28 USC §1631 for an Order transferring this action, as filed, directly to the United States Supreme Court, as a matter of law.

Respectfully submitted this 3rd day of August, 1990.

Stanley C. Mann, Pro se.,

Stanley C. Mann, Pro se.,
P. O. Box 27317
Salt Lake City, UT 84127-0317
Telephone: (801) 278-9460

IN THE UTAH SUPREME COURT

David Mark Newton Wheeler, a minor child, by and through his Guardian ad Litem, Mark Wayne Wheeler, Plaintiff and Appellee vs Stanley C. Mann, Defendant/Appellant	APPELLANT'S OPPOSITION TO SUPREME COURT RULING FILED June 30, 1988 Case No. 19730

Appellant, Stanley C. Mann, submits the following response in opposition to the Supreme Courts' Ruling handed down on June 30, 1988.

Appellant alleges the Court erred in holding that Appellant:

1. "Did not assert <u>before Trial Court</u> that the terms of the trust instrument entitled him to invest trust monies in, or to lend trust monies to, his own companies; nor did he refer to the above quoted language." (emphasis added.)

2. The Court erred in declining to consider the above argument.

3. The Court erred by ignoring the violation of designation of alternate trustee of the trust, set up by Joan Newton Wheeler.

4. Justice Christine M. Durham erred in not recusing herself from participating in the deliberation and ruling on this matter.

In support of his position, Appellant respectfully shows:

ARGUMENT

1.(a) There was never any Trial Court. It was because of this that Appeal was filed.

(b) At the one hearing, held on August 18, 1983 in Court of Judge J. Dennis Frederick, relative to the Partial Summary Judgment, the very assertion the Court denies was made did occur and the very same case which was cited by the Court was cited by the Appellant. (Transcript of Hearing, August 18, 1983, p. 27, line 20, thru p. 28, line 16, (Addendum No. 1). The Dipo v Dipo case was cited in Appellant's Brief, p. 16, and in paragraph IX. (g), p. 3, of the will. The very words the Courts' Findings

stated was not used is cited and discussed on p. 14 and p. 15 of Appellant's Brief filed May 21, 1984.

2. No one who read the Brief or perused the documents could honestly deny the existence of these documents, or hold to their ruling to not consider this argument in light of these documents.

3. The Court erred in ignoring Appellant's argument under Point V. Joan Newton Wheeler named an alternate trustee, in the event Appellant, Stanley c. Mann could not act. The alternative trustee was Joan Newton Wheeler's sister, Gail H. Taylor. Gail Taylor was never contracted or even considered as trustee, as so provided in the Trust, and merely because Wayne Wadsworth's family client did not want her as trustee (Transcript of Hearing, August 18, 1983, p. 37, and p. 38. (Addendum No. 1.)

No Court has the right to violate the constitutional rights of another and to violate

the statutes, relative to a properly drawn and executed Will and Trust of another.

Appellant firmly believes the point was intentionally ignored. There is no Statute, Rule or Precedent, which gives any court of Utah, or the United States, the right to so cancel an individual's rights and void the Statutes, duly passed by the Legislature, regarding the rights of individuals executing Wills and Trusts.

4. Judge Christine M. Durham held an ex-parte hearing, at which she appointed Mark W. Wheeler Guardian ad Litem of David Newton Wheeler. At that hearing, it was alleged Appellant, Stanley C. Mann was implicated in an attempt to kill Mark Wheeler. This was a totally false accusation and known to be false by Mark Wheeler's attorney and brother-in-law, H. Wayne Wadsworth.

CONCLUSION

The Supreme Court ruling should be reversed, on the basis of the obvious errors made in the

Findings of Fact, upon which the Court has stated it based its Ruling.

Dated this 8th day of July, 1988.

Stanley C. Mann, Pro se.,

APPENDIX E

ORDER
FROM THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

STANLEY C. MANN,	)	
	)	
Plaintiff - Appellant,	)	
	)	
v.	)	No. 90-4098
	)	
JUDGE KENNETH RIGTRUP, et a.,	)	
	)	
Defendants - Appellees.	)	
	)	

ORDER

Filed: October 10, 1990

Before MOORE and BALDOCK, Circuit Judges.

This matter comes on for consideration of Motions by Defendants to Dismiss this appeal based on lack of appellate jurisdiction, Plaintiff's Response in Opposition, Plaintiff's Petition for Transfer, Plaintiff's Second Motion to Transfer appeal, Defendants' Memoranda in Opposition, and the record on appeal.

Upon consideration whereof, the Motions to Dismiss, the Petition for Transfer, and the Second Motion to Transfer are denied.

Plaintiff's opening brief on the merits shall be served and filed within 40 days after the date of this Order. Subsequent briefing shall proceed in accordance with 10th Cir. R. 31.2.1.

Entered for the Court

ROBERT L. HOECKER, Clerk

APPENDIX F

FEDERAL RULES OF CIVIL PROCEDURE

RULE 7

PLEADINGS ALLOWED; FORM OF MOTIONS

FRCP RULE 7

PLEADINGS ALLOWED; FORM OF MOTIONS

(a) Pleadings. There shall be a complaint and an answer; a reply to a counterclaim denominated as such; an answer to a cross-claim, if the answer contains a cross-claim; a third-party complaint, if a person who was not an original party is summoned under the provisions of Rule 14; and a third-party answer, if a third-party complaint is served. No other pleading shall be allowed, except that the court may order a reply to an answer or a third-party answer.

* * *

APPENDIX G

FEDERAL RULES OF CIVIL PROCEDURE

RULE 8

GENERAL RULES OF PLEADING

FRCP RULE 8

GENERAL RULES OF PLEADING

* * *

(d) Effect of Failure to Deny. Averments in a pleading to which a responsive pleading is required other than those as to the amount of damage, are admitted when not denied in the responsive pleading. Averments in a pleading to which no responsive pleading is required or permitted shall be taken as denied or avoided.

APPENDIX H

FEDERAL RULES OF CIVIL PROCEDURE

RULE 33

INTERROGATORIES TO PARTIES

FRCP RULE 33

INTERROGATORIES TO PARTIES

(a) Availability; Procedures for Use. Any party may serve upon any other party written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party. Interrogatories may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the summons and complaint upon that party.

Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections signed by the attorney making them. The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within 30 days after the service of the interrogatories, except that a defendant may serve answers or objections within 45 days after service of the summons and complaint upon that defendant. The court may allow a shorter or longer time. The party submitting the interrogatories may move for an order under rule 37(a) with respect to any objection to or other failure to answer an interrogatory.

* * *

APPENDIX I

UTAH RULES OF CIVIL PROCEDURE

RULE 11

SIGNING OF PLEADINGS, MOTIONS, AND OTHER PAPERS, SANCTIONS

URCP RULE 11
SIGNING OF PLEADINGS, MOTIONS, AND OTHER PAPERS, SANCTIONS

Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in his individual name who is duly licensed to practice in the State of Utah. The attorney's address also shall be stated. A party who is not represented by an attorney shall sign his pleading, motion, or other paper and state his address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The rule in equity that the averments of an answer under oath must be overcome by the testimony of two witnesses or of one witness sustained by corroborating circumstances is abolished. The signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion, or other paper; that to the best of his knowledge, information and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

APPENDIX J

UTAH RULES OF CIVIL PROCEDURE

RULE 37

FAILURE TO MAKE OR COOPERATE IN DISCOVERY: SANCTIONS

URCP RULE 37

FAILURE TO MAKE OR COOPERATE IN DISCOVERY: SANCTIONS

(a) Motion for Order Compelling Discovery.

A party, upon reasonable notice to other parties and all persons affected thereby, may apply for an order compelling discovery as follows:

(1) Appropriate Court.

An application for an order to a party may be made to the court in which the action is pending, or, on matters relating to a deposition, to the court in the district where the deposition is being taken. An application for an order to a deponent who is not a party shall be made to the court in the district where the deposition is being taken.

(2) Motion.

If a deponent fails to answer a question propounded or submitted under rules 30 or 31, or a corporation or other entity fails to make a designation under Rule 30(b)(6) or 31(a), or a party fails to answer an interrogatory submitted under Rule 33, or if a party, in response to a request for inspection submitted under rule 34, fails to respond that inspection will be permitted as requested or fails to permit inspection as requested, the discovering party may move for an order compelling an answer, or a designation, or an order compelling inspection in accordance with the request. When taking a deposition or oral examination, the proponent of the question may complete or adjourn the examination before he applies for an order.

If the court denies the motion in whole or in part, it may make such protective order as it would have been empowered to make on a motion made pursuant to rule 26(c).

(3) Evasive or Incomplete Answer.

For purposes of this subdivision an evasive or incomplete answer is to be treated as a failure to answer.

(4) Award of Expenses of Motion.

If the motion is granted, the court shall, after opportunity for hearing, require the party or deponent whose conduct necessitated the motion or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorney fees, unless the court finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust.

If the motion is denied, the court shall, after opportunity for hearing, require the moving party or the attorney advising the motion or both of them to pay to the party or deponent who opposed the motion the reasonable expenses incurred in opposing the motion, including attorney fees, unless the court finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust.

If motion is granted in part and denied in part, the court may apportion the reasonable expenses incurred in relation to the motion among the parties and persons in a just manner.

(b) Failure to Comply with Order.

(1) Sanctions by court in District Where Deposition Is Taken.

If a deponent fails to be sworn or to answer a question after being directed to do so by the court in the district in which the deposition is being taken, the failure may be considered a contempt of that court.

(2) Sanctions by Court in Which Action is Pending.

If a party or an officer, director, or managing agent of a party or a person designated under Rule 30(b)(6) or 31(a) to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under subdivision (a) of this rule or Rule 33, or if a party fails to obey an order entered

under Rule 26(f), the court in which the action is pending may make such orders in regard to the failure as are just, and among others the following:

(A) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(B) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing designated matters in evidence;

(C) An order striking out pleadings or parts thereof, staying further proceedings until the order is obeyed, dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party;

(D) In lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of court the failure to obey any orders except an order to submit to a physical or mental examination;

(E) Where a party has failed to comply with an order under rule 35(a) requiring him to produce another for examination, such orders as are listed in paragraphs (A), (B), and (C) of this subdivision, unless the party failing to comply shows that he is unable to produce such person for examination.

In lieu of any of the foregoing orders or in addition thereto, the court shall require the party failing to obey the order or the attorney advising him or both to pay the reasonable expense, including attorney fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

(c) Expenses on Failure to Admit.

If a party fails to admit the genuineness of a document or the truth of any matter as

requested under Rule 36, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, he may apply to the court for an order requiring the other party to pay him the reasonable expenses incurred in making that proof, including reasonable attorney's fees. The court shall make the order unless it finds that (1) the request was held objectionable pursuant to Rule 36(a) or (2) the admission sought was of no substantial importance, or (3) the party failing to admit had reasonable ground to believe that he might prevail on the matter, or (4) there was other good reason for the failure to admit.

(d) Failure of Party to attend at Own Depositions or Serve Answers to Interrogatories or Respond to Request for Inspection.

If a party or an officer, director, or managing agent of a party or a person designated under Rule 30(b)(6) or 31(a) to testify on behalf of a party fails (1) to appear before the officer who is to take his deposition, after being served with a proper notice, or (2) to serve answers or objections to interrogatories submitted under Rule 33, after proper service of the interrogatories, or (3) to serve a written response to a request for inspection submitted under Rule 34, after proper service of the request, the court in which the action is pending on motion may make such orders in regard to the failure as are just, and among others it may take any action authorized under paragraphs (A), (B), and (C) of subdivision(b)(2) of this Rule. In lieu of any order or in addition thereto the court shall require the party failing to act or the attorney advising him or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

The failure to act described in this subdivision may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has applied for a protective order as provided by Rule 26(c).

* * *

APPENDIX K

UTAH RULES OF CIVIL PROCEDURE

RULE 56

SUMMARY JUDGMENT

URCP RULE 56

SUMMARY JUDGMENT

(a) For Claimant.
A party seeking to recover upon a claim, counter-claim or to obtain a declaratory judgment may, at any time after the expiration of twenty days from the commencement of the action or after service of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgement in his favor as to all or any part thereof.

(b) For Defending Party.
A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory judgement is sought, may, at any time, move with or without supporting affidavits for a summary judgment in his favor as to all or any part thereof.

(c) Motion and Proceedings Thereon.
The motion shall be served at least ten days before the time fixed for the hearing. The adverse party prior to the day of hearing may serve opposing affidavits. The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.

(d) Case Not fully Adjudicated on Motion.
If no motion under this Rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the

pleadings and the evidence before it and by interrogating counsel shall if practicable ascertain what material facts exist without substantial controversy and what facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action the facts so specified shall be deemed established, and the trial shall be conducted accordingly.

(e) Form of Affidavits; Further Testimony; Defense Required.

Supporting and opposing affidavits shall be made on person knowledge shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in the affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits. When a motion for summary judgment is made and supported as provided in this Rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this Rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him.

(f) When Affidavits are Unavailable.

Should it appear from the affidavits of a party opposing the motion that he cannot for reasons stated present by affidavit facts essential to justify his opposition, the court may refuse the application for judgment or may

order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

* * *

APPENDIX L

UTAH RULES OF EVIDENCE

RULE 608

EVIDENCE OF CHARACTER AND CONDUCT OF WITNESS

URE RULE 608
EVIDENCE OF CHARACTER AND CONDUCT OF WITNESS

(a) Opinion and reputation evidence of character.

The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations: (1) the evidence may refer only to character for truthfulness or untruthfulness and (2) evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence or otherwise.

(b) Specific instances of conduct.

Specific instances of the conduct of a witness for the purpose of attacking or supporting his credibility, other than conviction of crime as provided in Rule 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the court, if probative of truthfulness or untruthfulness, be inquired into on cross-examination of the witness (1) concerning his character for truthfulness or untruthfulness, or (2) concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.

The giving of testimony, whether by an accused or by any other witness, does not operate as a waiver of his privilege against self-incrimination when examined with respect to matters which relate only to credibility.

(c) Evidence of bias.

Bias, prejudice or any motive to misrepresent may be shown to impeach the witness either by examination of the witness or by evidence otherwise adduced.

APPENDIX M

UTAH RULES OF EVIDENCE

RULE 613

PRIOR STATEMENTS OF WITNESSES.

URE RULE 613

PRIOR STATEMENTS OF WITNESSES.

(a) Examining witness concerning prior statement.

In examining a witness concerning a prior statement made by him, whether written or not, the statement need not be shown nor its contents disclosed to him at that time, but on request the same shall be shown or disclosed to opposing counsel.

(b) Extrinsic evidence of prior inconsistent statement of witness.

Extrinsic evidence of prior inconsistent statement by a witness is not admissible unless the witness is afforded an opportunity to explain or deny the same and the opposite party is afforded an opportunity to interrogate him thereon, or the interest of justice otherwise require. This provision does not apply to admissions of a party-opponent or defined as Rule 801(d)(2).

APPENDIX N

UTAH CONSTITUTION

ARTICLE XII.

SEC. 4. CORPORATIONS

ARTICLE XII

Section 4. ["Corporations" -defined - suits.]

The term "Corporation," as used in this article shall be construed to include all associations and joint-stock companies having any powers or privileges of corporations not possessed by individuals or partnerships, and all corporations shall have the right to sue, and shall be subject to be sued; in all courts, in like cases as natural persons.

APPENDIX O

UTAH CODE

STATUTE §16-10-4

GENERAL POWERS - INDEMNIFICATION

UCA §16-10-4

16-10-4. General powers - indemnification

(1) Each corporation shall have power:

(a) to have perpetual succession by its corporate name unless a limited period of duration is stated in the articles of incorporation:

(b) to sue and be sued, complain and defend, in its corporate name;

* * *

APPENDIX P

UTAH CODE

STATUTE §16-11-5

APPLICATION OF UTAH BUSINESS CORPORATION ACT - CONFLICTS

UCA §16-11-5

16-11-5. Application of Utah business corporation act - conflicts

The Utah Business Corporation Act shall be applicable to professional corporations, and they shall enjoy the powers and privileges and be subject to the duties, restrictions and liabilities of other corporations, except where inconsistent with this act. This act shall take precedence in the event of any conflict with provisions of the Utah Business Corporation Act or other laws.

APPENDIX Q

UTAH CODE

STATUTE §75-3-203

PRIORITY AMONG PERSON SEEKING APPOINTMENT
AS PERSONAL REPRESENTATIVE

UCA §75-3-203

75-3-203. Priority among persons seeking appointment as personal representative

(1) Whether the proceedings are formal or informal, persons who are not disqualified have priority for appointment in the following order;

(a) The person with priority as determined by a probated will, including a person nominated by a power conferred in a will;

(b) The surviving spouse of the decedent who is a devise of the decedent;

(c) Other devises of the decedent;

(d) The surviving spouse of the decedent;

(e) Other heirs of the decedent;

* * *

APPENDIX R

UTAH CODE

STATUTE §76-1-301

CAPITAL FELONY, MURDER, MANSLAUGHTER - EMBEZZLEMENT OF PUBLIC MONEYS - FALSIFICATION OF PUBLIC RECORDS

UCA §76-1-301

76-1-301. Capital felony, murder, manslaughter - embezzlement of public moneys - falsification of public records

A prosecution for a capital felony, murder in the first or second degree, manslaughter, embezzlement of public moneys, or the falsification of public records may be commenced at any time.

APPENDIX S

UTAH CODE

STATUTE §76-6-406

THEFT BY EXTORTION

UCA §76-6-406

76-6-406. Theft by extortion.

(1) A person is guilty of theft, if he obtains or exercises control over the property of another by extortion and with the purpose to deprive him thereof.

(2) As used in this section, extortion occurs when a person threatens to:

(a) Cause physical harm in the future to the person threatened or to any other person or to property at any time; or

(b) Subject the person threatened or any other person to physical confinement or restraint; or

(c) Engage in other conduct constituting a crime; or

(d) Accuse any person of a crime or expose him to hatred; contempt, or ridicule; or

(e) Reveal any information sought to be concealed by the person threatened; or

(g) Take action as an official against anyone or anything, or withhold official action, or cause such action or withholding; or

(h) Bring about or continue a strike, boycott or similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or

(i) Do any other act which would not in itself substantially benefit him but which would harm substantially any other person with respect to that person';s health, safety, business, calling, career, financial condition, reputation or personal relationships.

APPENDIX T

UTAH CODE

STATUTE §76-8-201

OFFICIAL MISCONDUCT - UNAUTHORIZED ACT
OR FAILURE OF DUTY

UCA §76-8-201

76-8-201. Official misconduct - unauthorized act or failure of duty

A public servant is guilty of a class B misdemeanor if, with an intent to benefit himself or another or to harm another, he knowingly commits an unauthorized act which purports to be an act of his office, or knowingly refrains from performing a duty imposed on him by law or clearly inherent in the nature of his office.

APPENDIX U

UTAH CODE

STATUTE §76-8-306

OBSTRUCTING JUSTICE

UCA §76-8-306

76-8-306. Obstructing justice

(1) A person is guilty of an offense if, with intent to hinder, prevent or delay the discovery, apprehension, prosecution, conviction, or punishment of another for the commission of a crime, he:

(a) Knowing an offense has been committed; conceals it from a magistrate; or

(b) Harbors or conceals the offender; or

(c) Provides the offender a weapon, transportation, disguise, or other means for avoiding discovery of apprehension; or

(d) Warns such offender of impending discovery or apprehension; or

(e) Conceals, destroys, or alters any physical evidence that might aid in the discovery, apprehension, or conviction of such person; or

(f) Obstructs by force, intimidation, or deception anyone from performing an act which might aid in the discovery, apprehension, prosecution or conviction of such person.

* * *

APPENDIX V

UTAH CODE

STATUTE §76-8-502-503

FALSE OR INCONSISTENT MATERIAL
FALSE OR INCONSISTENT STATEMENTS

UCA §76-8-502-503

76-8-502. False or inconsistent material

A person is guilty of a felony of the second degree if in any official proceeding:

(1) He makes a false material statement under oath or affirmation or swears or affirms the truth of a material statement previously made and he does not believe the statement to be true; or

(2) He makes inconsistent material statements under oath or affirmation, both within the period of limitations, one of which is false and not believed by him to be true. In a prosecution under this section, it need not be alleged or proved which of the statements is false but only that one or the other was false and not believed by the defendant to be true.

§76-8-503. False or inconsistent statements

A person is guilty of a class B misdemeanor if;

(1) He makes a false statement under oath or affirmation or swears or affirms the truth of the statement previously made and he does not believe the statement to be true if;

(a) The falsification occurs in an official proceeding, or is made with a purpose to mislead a public servant in performing his official functions; or

(b) The statement is one which is required by law to be sworn or affirmed before a notary or other person authorized to administer oaths; or

(2) He makes inconsistent statements under oath or affirmation, both within the period of limitations, one of which is false and not believed by him to be true. In a prosecution under this section, it need not be alleged or proved which of the statements is false but only

that one or the other was false and not believed by the defendant to be true.

(3) No person shall be guilty under this section if he retracts the falsification before it becomes manifest that the falsification was or would be exposed.

APPENDIX W

UTAH CODE

STATUTE §76-8-504-505

WRITTEN FALSE STATEMENTS
PERJURY OR FALSE SWEARING - PROOF
OF FALSITY OF STATEMENTS -
DENIAL OF CRIMINAL GUILT

UCA §76-8-504 & UCA §76-8-505

76-8-504. A person is guilty of a class B misdemeanor if;

(1) He makes a written false statement which he does not believe to be true on or pursuant to a form hearing a notification authorized by law to the effect that false statements made therein are punishable; or

(2) With intent to deceive a public servant in the performance of his official function; he:

(a) Makes any written false statement which he does not believe to be true; or

(b) Knowingly creates a false impression in a written application for any pecuniary or other benefit by omitting information necessary to prevent statements therein from being misleading; or

(c) Submits or invites reliance on any writing which he knows to be lacking authenticity; or

(d) Submits or invites reliance on any sample, specimen, map, boundary mark; or other object which he knows to be false.

(3) No person shall be guilty under this section if he retracts the falsification before it becomes manifest that the falsification was or would be exposed.

76-8-505. Perjury or false swearing - Proof of falsity of statements - Denial of criminal guilt

(1) On any prosecution for perjury or false swearing, except a prosecution upon inconsistent statements, pursuant to §76-8-502(2), falsity of a statement may not be established solely through contradiction by the testimony of a single witness.

(2) No prosecution shall be brought under this part when the substance of the defendant's false statement is his denial of guilt in a previous criminal trial.

APPENDIX X

UTAH CODE

STATUTE §76-8-506

FALSE REPORTS OF OFFENSES TO LAW ENFORCEMENT OFFICER

UCA §76-8-506

76-8-506. False reports of offenses to law enforcement officer

A person is guilty of a class B misdemeanor if he;

(1) Knowingly gives or causes to be given false information to any law enforcement officer with a purpose of inducing the officer to believe that another has committed an offense; or

(2) Knowingly gives or causes to be given information to any law enforcement officer concerning the commission of an offense, knowing that the offense did not occur or knowing that he has no information relating to the offense or danger.

APPENDIX Y

UTAH CODE

STATUTE §76-8-508, §76-8-510, §76-8-511

TAMPERING WITH WITNESS -
RETALIATION AGAINST WITNESS OR INFORMANT
BRIBERY

TAMPERING WITH EVIDENCE

UCA 76-8-508, UCA 76-8-510, UCA 76-8-511

76-8-508. Tampering with witness - Retaliation against witness or informant - Bribery

A person is guilty of a felony of the third degree if:

(1) Believing that an official proceeding or investigation is pending or about to be instituted, he attempts to induce or otherwise cause a person to:

(a) Testify or inform falsely; or

(b) Withhold any testimony, information, document, or thing; or

(c) Elude legal process summoning him to provide evidence; or

(d) Absent himself from any proceeding or investigation to which he has been summoned; or

(2) He commits any unlawful act in retaliation for anything done by another in his capacity as a witness or informant; or

(3) He solicits, accepts or agrees to accept any benefit in consideration of his doing any of the things specified in paragraph (1).

* * *

76-8-510. Tampering with evidence

A person commits a felony of the second degree it, believing that an official proceeding or investigation is pending or about to be instituted, he:

(1) Alters, destroys, conceals, or removes anything with a purpose to impair its verity or availability in the proceeding or investigation; or

(2) Makes, presents, or uses anything which he knows to be false with a purpose to deceive a public servant who is or may be engaged in a proceeding or investigation.

76-8-511. Falsification or alteration of government record.

A person is guilty of a class B misdemeanor if he:

(1) Knowingly makes a false entry in or false alteration of anything belonging to, received, or kept by the government for information or record, or required by law to be kept for information of the government; or

(2) Presents or uses anything knowing it to be false and with a purpose that it be taken as a genuine part of information or records referred to in (1); or

(3) Intentionally and unlawfully destroys, conceals, or otherwise impairs the verity or availability of any such thing.